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Code of Federal Regulations

# 27

**Parts 1 to 39**

Revised as of April 1, 2008

# Alcohol, Tobacco Products and Firearms

Containing a codification of documents of general applicability and future effect

As of April 1, 2008

*With Ancillaries*

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# Table of Contents


| | Page |
|---|---|
| Explanation | v |
| Title 27: | |
| Chapter I—Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury | 3 |
| Finding Aids: | |
| Material Approved for Incorporation by Reference | 907 |
| Table of CFR Titles and Chapters | 909 |
| Alphabetical List of Agencies Appearing in the CFR | 927 |
| List of CFR Sections Affected | 937 |

*Cite this Code:* CFR

*To cite the regulations in this volume use title, part and section number. Thus,* 27 CFR 1.1 *refers to title 27, part 1, section 1.*

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Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
Title 42 through Title 50.....as of October 1

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RAYMOND A. MOSLEY,
*Director,*
*Office of the Federal Register.*
*April 1, 2008.*

# THIS TITLE

Title 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS is composed of three volumes, parts 1–39, parts 40–399, and part 400 to end. The contents of these volumes represent all current regulations issued by the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, as of April 1, 2008.

For this volume, Kenneth R. Payne and Elmer Barksdale were Chief Editors. The Code of Federal Regulations publication program is under the direction of Michael L. White, assisted by Ann Worley.

# Title 27—Alcohol, Tobacco Products and Firearms

(This book contains parts 1 to 39)

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*Part*

CHAPTER I—Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury ..... 1

ABBREVIATIONS USED IN THIS CHAPTER:

ATF = *Alcohol, Tobacco and Firearms.* T.D. = *Treasury Decision.* TTB = *Alcohol and Tobacco Tax and Trade Bureau.*

# CHAPTER I—ALCOHOL AND TOBACCO TAX AND TRADE BUREAU, DEPARTMENT OF THE TREASURY

EDITORIAL NOTES: 1. The regulations appearing in this title were originally issued by the Federal Alcohol Administration, which was abolished by Reorganization Plan No. III, Apr. 2, 1940, 5 FR 2107, 3 CFR, 1940 Supp. Treasury Order 30, June 12, 1940, 5 FR 2212, issued under sections 2 and 8 of Reorganization Plan No. III (54 Stat. 1232) provided that these regulations continue in effect as regulations of the Bureau of Alcohol, Tobacco and Firearms.

2. Nomenclature changes to chapter I appear by T.D. TTB–44, 71 FR 16920, Apr. 4, 2006.

SUBCHAPTER A—ALCOHOL


| *Part* | | *Page* |
|---|---|---|
| 1 | Basic permit requirements under the Federal Alcohol Administration Act, nonindustrial use of distilled spirits and wine, bulk sales and bottling of distilled spirits | 5 |
| 4 | Labeling and advertising of wine | 13 |
| 5 | Labeling and advertising of distilled spirits | 47 |
| 6 | ''Tied-House'' | 79 |
| 7 | Labeling and advertising of malt beverages | 90 |
| 8 | Exclusive outlets | 107 |
| 9 | American viticultural areas | 111 |
| 10 | Commercial bribery | 293 |
| 11 | Consignment sales | 296 |
| 12 | Foreign nongeneric names of geographic significance used in the designation of wines | 300 |
| 13 | Labeling proceedings | 303 |
| 16 | Alcoholic beverage health warning statement | 312 |
| 17 | Drawback on taxpaid distilled spirits used in manufacturing nonbeverage products | 315 |
| 18 | Production of volatile fruit-flavor concentrate | 340 |
| 19 | Distilled spirits plants | 350 |
| 20 | Distribution and use of denatured alcohol and rum | 491 |
| 21 | Formulas for denatured alcohol and rum | 530 |
| 22 | Distribution and use of tax-free alcohol | 560 |
| 24 | Wine | 584 |
| 25 | Beer | 673 |

| *Part* | | *Page* |
|---|---|---|
| 26 | Liquors and articles from Puerto Rico and the Virgin Islands | 726 |
| 27 | Importation of distilled spirits, wines, and beer | 780 |
| 28 | Exportation of alcohol | 800 |
| 29 | Stills and miscellaneous regulations | 848 |
| 30 | Gauging manual | 852 |
| 31 | Alcohol Beverage Dealers | 864 |


SUPPLEMENTARY PUBLICATIONS: Additional supplementary publications are issued covering individual parts of the *Alcohol, Tobacco and Firearms Regulations,* the *Tobacco Tax Guide,* and *Regulations Under Tax Conventions.*

# SUBCHAPTER A—LIQUORS

## PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, BULK SALES AND BOTTLING OF DISTILLED SPIRITS

### Subpart A—Scope


Sec.
1.1 General.
1.2 Territorial extent.
1.3 Forms prescribed.
1.4 Delegations of the Administrator.


### Subpart B—Definitions


1.10 Meaning of terms.


### Subpart C—Basic Permits

WHEN REQUIRED


1.20 Importers.
1.21 Domestic producers, rectifiers, blenders, and warehousemen.
1.22 Wholesalers.
1.23 State agencies.


PERSONS ENTITLED TO BASIC PERMITS


1.24 Qualifications of applicants.


APPLICATIONS FOR PERMITS


1.25 General.
1.26 Incomplete or incorrectly executed applications.
1.27 Change in ownership, management, or control of the applicant.
1.29 Individual plant or premises.
1.30 Power of attorney; Form 5000.8 (1534).
1.31 Denial of permit applications.


AUTHORIZATION


1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.


AMENDMENT AND DURATION OF BASIC PERMITS


1.40 Change of name.
1.41 Change of address.
1.42 Change in ownership, management, or control of business.
1.43 Duration of permits.
1.44 Automatic termination of permits.


REVOCATION, SUSPENSION, OR ANNULMENT OF BASIC PERMITS


1.50 Revocation or suspension.
1.51 Annulment.
1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.


MISCELLANEOUS


1.55 Recalling permits for correction.
1.56 Oaths and affirmations.
1.57 Procedure.
1.58 Filing of permits.
1.59 Public information as to applications acted upon.


### Subpart D—Nonindustrial Use of Distilled Spirits and Wine

USES REGARDED AS INDUSTRIAL


1.60 Use of distilled spirits.
1.61 Use of wine.
1.62 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.


USES CLASSED AS NONINDUSTRIAL


1.70 General.
1.71 Distilled spirits in containers of a capacity of one gallon or less.


### Subpart E—Bulk Sales and Bottling of Distilled Spirits

BULK SALES AND BOTTLING


1.80 Sales of distilled spirits in bulk.
1.81 Importation of distilled spirits in bulk.
1.82 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.
1.83 Acquiring or receiving distilled spirits in bulk for addition to wine.
1.84 Acquisition of distilled spirits in bulk by Government agencies.


WAREHOUSE RECEIPTS


1.90 Distilled spirits in bulk.
1.91 Bottled distilled spirits.


SALES OF DISTILLED SPIRITS FOR INDUSTRIAL USE


1.95 General.


AUTHORITY: 27 U.S.C. 203, 204, 206, 211 unless otherwise noted.

SOURCE: T.D. ATF–373, 61 FR 26098, May 24, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1 appear by T.D. ATF–463, 66 FR 42733, Aug. 15, 2001.

## Subpart A—Scope

### § 1.1 General.

(a) The regulations in this part relate to requirements governing the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits and the duration of permits, except that the provisions of part 71, Rules of Practice in Permit Proceedings, of this chapter are hereby made applicable to administrative proceedings with respect to the application for, and to the suspension, revocation, or annulment of, basic permits under the Federal Alcohol Administration Act.

(b) The regulations in this part also specify what uses of distilled spirits and wine are ''nonindustrial,'' as that term is used in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211). Finally, this part, in accordance with section 106 of the Federal Alcohol Administration Act (27 U.S.C. 206), contains the substantive requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk. No procedural requirements are prescribed.

### § 1.2 Territorial extent.

The provisions of this part are applicable to the several States of the United States, the District of Columbia and Puerto Rico.

### § 1.3 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999; T.D. TTB–44, 71 FR 16920, Apr. 4, 2006]

### § 1.4 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.1, Delegation of the Administrator's Authorities in 27 CFR Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16920, Apr. 4, 2006]

## Subpart B—Definitions

### § 1.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Alcohol.* Ethyl alcohol distilled at or above 190° proof.

*Applicant.* Any person who has filed an application for a basic permit under the Federal Alcohol Administration Act with the appropriate TTB officer.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.1, Delegation of the Administrator's Authorities in 27 CFR Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits.

*Basic permit.* A document issued under the Act authorizing a person to engage in activities at a particular location.

*Brandy.* Brandy or wine spirits for addition to wines as permitted by internal revenue law.

*Distilled spirits.* Section 117(a) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)) defines ''distilled spirits'' as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

*In bulk.* Distilled spirits in containers having a capacity in excess of one wine gallon.

*Other term.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

*Permittee.* Any person holding a basic permit issued under the Federal Alcohol Administration Act.

*Person.* Any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

*Resale at wholesale.* A sale to any trade buyer.

*Trade buyer.* Any person who is a wholesaler or retailer of distilled spirits, wine, or malt beverages.

*Wine.* Section 117(a) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)) defines ''wine'' as:

(a) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 5381–5392), as now in force or hereafter amended, and

(b) Other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance, only if containing not less than 7 percent and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

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

[T.D. ATF–373, 61 FR 26098, May 24, 1996. Redesignated and amended by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999; T.D. TTB–44, 71 FR 16920, Apr. 4, 2006]

## Subpart C—Basic Permits

EDITORIAL NOTE: Nomenclature changes to subpart C appear by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999.

WHEN REQUIRED

### § 1.20 Importers.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of importing into the United States distilled spirits, wine, or malt beverages; or

(b) While so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

### § 1.21 Domestic producers, rectifiers, blenders, and warehousemen.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; or

(b) While so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits or wine so distilled, produced, rectified, blended, or bottled, or warehoused and bottled.

### § 1.22 Wholesalers.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of purchasing for resale at wholesale, distilled spirits, wine, or malt beverages; or,

(b) While so engaged, receive, sell, offer or deliver for sale, contract to sell, or ship in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so purchased.

### § 1.23 State agencies.

This subpart shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency or officer or employee thereof shall be required to obtain a basic permit under this subpart.

PERSONS ENTITLED TO BASIC PERMITS

### § 1.24 Qualifications of applicants.

The application of any person shall be granted and the permit issued by the appropriate TTB officer if the applicant proves to the satisfaction of the appropriate TTB officer that:

(a) Such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not, within 5 years prior to the date of application, been convicted of a felony under Federal or State law, and has not, within 3 years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; and

(b) Such person, by reason of the person's business experience, financial standing or trade connections, is likely to commence operations as a distiller, warehouseman and bottler, rectifier, wine producer, wine blender, importer, or wholesaler, as the case may be, within a reasonable period and to maintain such operations in conformity with Federal law; and

(c) The operations proposed to be conducted by such person are not in violation of the law of the State in which they are to be conducted.

APPLICATIONS FOR PERMITS

### § 1.25 General.

Applications for basic permits to engage in any of the operations set forth in §§ 1.20 to 1.22 must be made on TTB Form 5100.24, or 5100.18, verified as required by § 1.56, and will be accompanied by such affidavits, documents, and other supporting data, as the appropriate TTB officer may require. The application will include all data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon a hearing.

[T.D. ATF–416, 64 FR 49985, Sept. 15, 1999; T.D. ATF–416a, 64 FR 54776, Oct. 8, 1999]

### § 1.26 Incomplete or incorrectly executed applications.

Incomplete or incorrectly executed applications will not be acted upon, but the applicant shall be entitled to file a new application without prejudice, or to complete the application already filed.

### § 1.27 Change in ownership, management, or control of the applicant.

In the event of any change in the ownership, management, or control of the applicant (in case of a corporation, any change in the officers, directors, or persons holding more than 10 percent of the corporate stock), after the date of filing of any application for a basic permit and prior to final action on such application, the applicant shall notify the appropriate TTB officer immediately of such change.

### § 1.29 Individual plant or premises.

An application for a basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in section 103 of the Act is engaged in.

[T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

### § 1.30 Power of attorney; Form 5000.8 (1534).

If the application and other documents in support of such application are signed by an attorney in fact of an individual, partnership, association, or corporation, or by one of the members of a copartnership or association, or, in the case of a corporation by an officer or other person not authorized by the corporation's bylaws or by its board of directors to sign such applications and supporting documents, the applications must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the documents to execute the

same. Such powers of attorney will be executed on Form 5000.8 (1534).

(Approved by the Office of Management and Budget under control number 1512–0079)

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

### § 1.31 Denial of permit applications.

If, upon examination of any application for a basic permit, the appropriate TTB officer has reason to believe that the applicant is not entitled to such a permit, the appropriate TTB officer shall institute proceedings for the denial of the application in accordance with the procedure set forth in part 71 of this chapter.

AUTHORIZATION

### § 1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the appropriate TTB officer except as to agency initiated curtailment. The Administrator, upon consideration of appeals on petitions for review in part 71 of this chapter, may order the appropriate TTB officer to issue, deny, suspend, revoke, or annul basic permits.

[T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

AMENDMENT AND DURATION OF BASIC PERMITS

### § 1.40 Change of name.

In the event of any change in the name (trade or corporate name) of a permittee, or, in the event a permittee desires to engage in operations under an additional trade name, such permittee must file application Form 5100.18 for an amended basic permit, which application must be approved, and amended permit issued, before operations may be commenced under the new name.

(Approved by the Office of Management and Budget under control number 1512–0090)

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF– 416, 64 FR 49985, Sept. 15, 1999]

### § 1.41 Change of address.

In the event of a change in address the permittee must file application Form 5100.18 for an amended basic permit.

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF– 416, 64 FR 49985, Sept. 15, 1999]

### § 1.42 Change in ownership, management, or control of business.

In the event of any change in the ownership, management, or control of any business operated pursuant to a basic permit (if the permittee is a corporation, if any change occurs in the officers, directors, or persons owning or controlling more than 10 percent of the voting stock of said corporation) the permittee shall immediately notify the appropriate TTB officer of such change, giving the names and addresses of all new persons participating in the ownership, management, or control of such business, or in the case of a corporation, the names and addresses of such new officers, directors, or persons owning or controlling more than 10 percent of the voting stock. Notice to the appropriate TTB officer of any such change shall be accompanied or supplemented by such data in reference to the personal or business history of such persons as the appropriate TTB officer may require.

### § 1.43 Duration of permits.

A basic permit shall continue in effect until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated, as provided in the Act and in this part.

### § 1.44 Automatic termination of permits.

No basic permit shall be leased, sold, or otherwise voluntarily transferred, and, in the event of such lease, sale, or other voluntary transfer, such basic permit shall automatically terminate thereupon. If any basic permit is transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly whether by stock ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of 30 days thereafter:

Provided, That if within such 30-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such time as the application is finally acted upon.

REVOCATION, SUSPENSION, OR ANNULMENT OF BASIC PERMITS

### § 1.50 Revocation or suspension.

Whenever the appropriate TTB officer has reason to believe that any permittee has willfully violated any of the conditions of the permittee's basic permit or has not engaged in the operations authorized by the permit for a period of more than two years, the appropriate TTB officer shall institute proceedings for the revocation or suspension of such permit, in accordance with the procedure set forth in part 71 of this chapter, which part is made applicable to such proceedings.

### § 1.51 Annulment.

Whenever the appropriate TTB officer has reason to believe that any basic permit was procured through fraud, or misrepresentation or concealment of material fact, the appropriate TTB officer shall institute proceedings for the annulment of such permit in accordance with the procedure set forth in part 71 of this chapter, which part is made applicable to such proceedings.

### § 1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

In the event of the revocation or annulment of a basic permit, pursuant to part 71 of this chapter, or in the event such permit is automatically terminated by operation of law (27 U.S.C. 204(g) and § 1.44 of this part), the appropriate TTB officer may authorize the orderly disposition of stocks of distilled spirits, wines, or malt beverages then held by the permittee or former permittee upon such conditions as may be considered proper.

MISCELLANEOUS

### § 1.55 Recalling permits for correction.

Whenever it shall be discovered that any basic permit has been issued authorizing acts, or combinations of acts, which may not properly, under the law and regulations, as of now or hereafter in force, be authorized, or that any material mistake has occurred in the issuance thereof, the holder of such permit shall forthwith surrender the same for correction or amendment upon demand of the appropriate TTB officer.

### § 1.56 Oaths and affirmations.

A document must be verified by an oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the jurisdiction where the document is executed when required by:

(a) Regulation; or

(b) An appropriate TTB officer.

[T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

### § 1.57 Procedure.

The procedures prescribed by the rules of practice in permit proceedings (part 71 of this chapter) are applicable to administrative proceedings for the issuance, amendment, denial, revocation, suspension, or annulment of basic permits, the issuance of subpoenas and the taking of depositions under the Act.

### § 1.58 Filing of permits.

Every person receiving a basic permit under the provisions of this part must file the same, at the place of business covered by the basic permit, so that it may be examined by appropriate TTB officers.

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

### § 1.59 Public information as to applications acted upon.

The appropriate TTB officer shall cause to be maintained currently in the appropriate TTB officer's office for public inspection, until the expiration of one year following final action on the application, the following information with respect to each application for basic permit filed:

(a) The name, including trade name or names, if any, and the address of the applicant; the kind of permit applied

for and the location of the business; whether the applicant is an individual, a partnership or a corporation; if a partnership, the name and address of each partner; if a corporation, the name and address of each of the principal officers and of each stockholder owning 10 percent or more of the corporate stock.

(b) The time and place set for any hearing on the application.

(c) The final action taken on the application. In the event a hearing is held upon an application for a basic permit, the appropriate TTB officer shall make available for inspection at the appropriate TTB officer's office, upon request therefor: The transcript of the hearing, a copy of the administrative law judge's recommended decision, a copy of the appropriate TTB officer's decision and, in the event of an appeal to the Administrator, the decision on appeal with the reasons given in support thereof.

[T.D. ATF–373, 61 FR 26098, May 24, 1996, as amended by T.D. ATF–416, 64 FR 49985, Sept. 15, 1999]

## Subpart D—Nonindustrial Use of Distilled Spirits and Wine

USES REGARDED AS INDUSTRIAL

### § 1.60 Use of distilled spirits.

The following uses of distilled spirits are regarded as ''industrial'' and will be excluded from any application of the term ''nonindustrial use.'' The use of distilled spirits:

(a) Free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; or

(b) Free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale:

(1) For the use of any educational organization described in 26 U.S.C. 170(b)(1)(A)(ii) 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;

(2) For any laboratory for use exclusively in scientific research;

(3) For use at any hospital, blood bank, or sanitarium (including use in making analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(4) For the use of any clinic operated for charity and not for profit (including use in compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(c) Free of tax, after denaturation of such spirits in the manner prescribed by law for:

(1) Use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(2) Any other use in the arts and industries (except for uses prohibited by 26 U.S.C. 5273 (b) or (d)) and for fuel, light, and power.

### § 1.61 Use of wine.

The following uses of wine are regarded as ''industrial'' and will be excluded from any application of the term ''nonindustrial''. The use of wine:

(a) Without payment of tax for use in the production of vinegar; or

(b) Free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research; or

(c) Free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments; or

(d) Which has been rendered unfit for beverage use.

### § 1.62 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

The use of distilled spirits or wine for experimental purposes and in the manufacture of (a) medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (b) toilet preparations; (c) flavoring extracts, syrups, or food products; or (d) scientific, chemical, mechanical, or industrial products,

provided such products are unfit for beverage use, is regarded as ''industrial,'' and will be excluded from any application of the term ''nonindustrial use.''

USES CLASSED AS NONINDUSTRIAL

### § 1.70 General.

All uses of distilled spirits and wines, except as provided in §§ 1.60, 1.61, and 1.62 of this part, are regarded as ''nonindustrial.'' Such ''nonindustrial'' use shall include, but not be limited to, distilled spirits or wine used for beverage purposes, or in the manufacture, rectification, or blending of alcoholic beverages; or in the preparation of food or drink by a hotel, restaurant, tavern, or similar establishment; or for sacramental purposes; or as a medicine.

### § 1.71 Distilled spirits in containers of a capacity of one gallon or less.

Distilled spirits in containers of a capacity of one wine gallon or less, except anhydrous alcohol and alcohol which may be withdrawn free of tax under the internal revenue laws, will be deemed to be for nonindustrial use.

## Subpart E—Bulk Sales and Bottling of Distilled Spirits

BULK SALES AND BOTTLING

### § 1.80 Sales of distilled spirits in bulk.

It is unlawful for any person to sell, offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk, for nonindustrial use, except for export or to the classes of persons enumerated in §§ 1.82, 1.83, and 1.84.

### § 1.81 Importation of distilled spirits in bulk.

It is unlawful for any person to import distilled spirits in bulk, for nonindustrial use, except for sale to or for use by the classes of persons enumerated in §§ 1.82, 1.83 and 1.84.

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

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

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

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

### § 1.83 Acquiring or receiving distilled spirits in bulk for addition to wine.

Persons holding permits as producers and blenders of wine, may, pursuant to such permit, acquire or receive in bulk alcohol or brandy for addition to wines.

### § 1.84 Acquisition of distilled spirits in bulk by Government agencies.

Any agency of the United States, or of any State or political subdivision thereof, may acquire or receive in bulk, and warehouse and bottle, imported and domestic distilled spirits in conformity with the internal revenue laws.

WAREHOUSE RECEIPTS

### § 1.90 Distilled spirits in bulk.

By the terms of the Act (27 U.S.C. 206), all warehouse receipts for distilled spirits in bulk must require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

### § 1.91 Bottled distilled spirits.

The provisions of the Act, which forbid any person to sell, offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk, do not apply to warehouse receipts for bottled distilled spirits.

CROSS REFERENCE: For labeling of distilled spirits, see part 5 of this chapter.

SALES OF DISTILLED SPIRITS FOR INDUSTRIAL USE

**§ 1.95 General.**

Distillers, rectifiers, and other permittees engaged in the sale or other disposition of distilled spirits for non-industrial use shall not sell or otherwise dispose of distilled spirits in bulk (other than alcohol) for industrial use, unless such distilled spirits are shipped or delivered directly to the industrial user thereof.

# PART 4—LABELING AND ADVERTISING OF WINE

## Subpart A—Scope

Sec.
4.1 General.
4.2 Territorial extent.
4.3 Forms prescribed.
4.4 Delegations of the Administrator.
4.5 Related regulations.

## Subpart B—Definitions

4.10 Meaning of terms.

## Subpart C—Standards of Identity for Wine

4.20 Application of standards.
4.21 The standards of identity.
4.22 Blends, cellar treatment, alteration of class or type.
4.23 Varietal (grape type) labeling.
4.24 Generic, semi-generic, and non-generic designations of geographic significance.
4.25 Appellations of origin.
4.26 Estate bottled.
4.27 Vintage wine.
4.28 Type designations of varietal significance.

## Subpart D—Labeling Requirements for Wine

4.30 General.
4.32 Mandatory label information.
4.32a Voluntary disclosure of major food allergens.
4.32b Petitions for exemption from major food allergen labeling.
4.33 Brand names.
4.34 Class and type.
4.35 Name and address.
4.36 Alcoholic content.
4.37 Net contents.
4.38 General requirements.
4.38a Bottle cartons, booklets and leaflets.
4.39 Prohibited practices.

## Subpart E—Requirements for Withdrawal of Wine From Customs Custody

4.40 Label approval and release.
4.45 Certificates of origin, identity and proper cellar treatment.
4.46 Certificate of nonstandard fill.

## Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

4.50 Certificates of label approval.
4.51 Exhibiting certificates to Government officials.
4.52 Photoprints.

## Subpart G—Advertising of Wine

4.60 Application.
4.61 Definitions.
4.62 Mandatory statements.
4.63 Legibility of mandatory information.
4.64 Prohibited practices.
4.65 Comparative advertising.

## Subpart H—Standards of Fill for Wine

4.70 Application.
4.71 Standard wine containers.
4.72 Metric standards of fill.

## Subpart I—General Provisions

4.80 Exports.

## Subpart J—American Grape Variety Names

4.91 List of approved prime names.
4.92 Alternative names permitted for temporary use.
4.93 Approval of grape variety names.

## Subpart K—Use of the Term ''Organic''

4.101 Use of the term ''organic.''

AUTHORITY: 27 U.S.C. 205, unless otherwise noted.

SOURCE: T.D. 6521, 25 FR 13835, Dec. 29, 1960, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 4 appear by T.D. ATF–425, 65 FR 11890, Mar. 7, 2000.

## Subpart A—Scope

**§ 4.1 General.**

The regulations in this part relate to the labeling and advertising of wine.

**§ 4.2 Territorial extent.**

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

### § 4.3 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–92, 46 FR 46911, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5955, Feb. 27, 1987; T.D. 372, 61 FR 20723, May 8, 1996; T.D. ATF–425, 65 FR 11890, Mar. 7, 2000; T.D. TTB–44, 71 FR 16920, Apr. 4, 2006]

### § 4.4 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.4, Delegation of the Administator's Authorities in 27 CFR Part 4, Labeling and Advertising of Wine. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16920, Apr. 4, 2006]

### § 4.5 Related regulations.

The following regulations also relate to this part:

27 CFR Part 205—National Organic Program
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits
27 CFR Part 5—Labeling and Advertising of Distilled Spirits
27 CFR Part 7—Labeling and Advertising of Malt Beverages
27 CFR Part 9—American Viticultural Areas
27 CFR Part 12—Foreign Nongeneric Names of Geographic Significance Used in the Designation of Wines
27 CFR Part 13—Labeling Proceedings
27 CFR Part 16—Alcoholic Beverage Health Warning Statement
27 CFR Part 24—Wine
27 CFR Part 26—Liquors and Articles From Puerto Rico and the Virgin Islands
27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer
27 CFR Part 28—Exportation of Alcohol
27 CFR Part 71—Rules of Practice in Permit Proceedings

[T.D. ATF–483, 67 FR 62857, Oct. 8, 2002, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

## Subpart B—Definitions

### § 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

*Act.* The Federal Alcohol Administration Act.

*Added brandy.* Brandy or wine spirits for use in fortification of wine as permitted by internal revenue law.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Advertisement.* See § 4.61 for meaning of term as used in subpart G of this part.

*Alcohol.* Ethyl alcohol distilled at or above 190° proof.

*American.* The several States, the District of Columbia, and Puerto Rico; ''State'' includes the District of Columbia and Puerto Rico.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.4,Delegation of the Administrator's Authorities in 27 CFR part 4, Labeling and Advertising of Wine.

*Bottler.* Any person who places wine in containers of four liters or less. (See meaning for ''containers'' and ''packer''.)

*Brand label.* The label carrying, in the usual distinctive design, the brand name of the wine.

*Container.* Any bottle, barrel, cask, or other closed receptacle irrespective of size or of the material from which

made for use for the sale of wine at retail. (See meaning for ''bottler'' and ''packer''.)

*Gallon.* A U.S. gallon of 231 cubic inches of alcoholic beverages at 60 °F.

*Interstate or foreign commerce.* Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

*Liter or litre.* (a) A metric unit of capacity equal to 1,000 cubic centimeters and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1,000 milliliters (ml).

(b) For purposes of regulation, one liter of wine is defined as that quantity (mass) of wine occupying a one-liter volume at 20 °Celsius (68 °F).

*Packer.* Any person who places wine in containers in excess of four liters. (See meaning for ''container'' and ''bottler''.)

*Percent or percentage.* Percent by volume.

*Permittee.* Any person holding a basic permit under the Federal Alcohol Administration Act.

*Person.* Any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

*Pure condensed must.* The dehydrated juice or must of sound, ripe grapes, or other fruit or agricultual products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water.

*Restored pure condensed must.* Pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process.

*Sugar.* Pure cane, beet, or dextrose sugar in dry for containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

*Total solids.* The degrees Brix of the dealcoholized wine restored to its original volume.

*Trade buyer.* Any person who is a wholesaler or retailer.

*United States.* The several States, the District of Columbia, and Puerto Rico; the term ''State'' includes the District of Columbia and Puerto Rico.

*Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

*Wine.* (a) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, initation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

[T.D. ATF–48, 43 FR 13532, Mar. 31, 1978, as amended by T.D. ATF–49, 43 FR 19848, May 9, 1978; T.D. ATF–53, 43 FR 37675, Aug. 23, 1978; 44 FR 55838, Sept. 29, 1979; T.D. ATF–66, 45 FR 40544, June 13, 1980; T.D. ATF–94, 46 FR 55095, Nov. 6, 1981; T.D. ATF–299, 55 FR 24988, June 19, 1990; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D. TTB–44, 71 FR 16921, Apr. 4, 2006]

## Subpart C—Standards of Identity for Wine

### §4.20 Application of standards.

The standards of identity for the several classes and types of wine set forth herein shall be applicable to all regulations and permits issued under the act. Whenever any term for which a standard of identity has been established herein is used in any such regulation or permit, such term shall have the meaning assigned to it by such standard of identity.

### §4.21 The standards of identity.

Standards of identity for the several classes and types of wine set forth in this part shall be as follows:

(a) *Class 1; grape wine*—(1) *Grape wine* is wine produced by the normal alcoholic fermentation of the juice of sound, ripe grapes (including restored or unrestored pure condensed grape

must), with or without the addition, after fermentation, of pure condensed grape must, and with or without added grape brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided,* That the product may be ameliorated before, during or after fermentation by either of the following methods:

(i) By adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent; but in no event shall any product so ameliorated have an alcoholic content derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) By adding, separately or in combination, not more than 20 percent by weight of dry sugar, or not more than 10 percent by weight of water.

(iii) In the case of domestic wine, in accordance with 26 U.S.C. 5383.

(iv) The maximum volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide is 0.14 gram per 100 mL (20 °C) for natural red wine and 0.12 gram per 100 mL (20 °C) for other grape wine: *Provided,* That the maximum volatile acidity for wine produced from unameliorated juice of 28 or more degrees Brix is 0.17 gram per 100 milliliters for red wine and 0.15 gram per 100 milliliters for white wine. Grape wine deriving its characteristic color or lack of color from the presence or absence of the red coloring matter of the skins, juice, or pulp of grapes may be designated as ''red wine,'' ''pink (or rose) wine,'' ''amber wine,'' or ''white wine'' as the case may be. Any grape wine containing no added grape brandy or alcohol may be further designated as ''natural.''

(2) *Table wine* is grape wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as ''light wine,'' ''red table wine,'' ''light white wine,'' ''sweet table wine,'' etc., as the case may be.

(3) *Dessert wine* is grape wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume. Dessert wine having the taste, aroma and characteristics generally attributed to sherry and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 17 percent by volume, may be designated as ''sherry''. Dessert wines having the taste, aroma and characteristics generally attributed to angelica, madeira, muscatel and port and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 18 percent by volume, may be designated as ''angelica,'' ''madeira,'' ''muscatel,'' or ''port'' respectively. Dessert wines having the taste, aroma, and characteristics generally attributed to any of the above products and an alcoholic content, derived in part from added grape brandy or alcohol, in excess of 14 percent by volume but, in the case of sherry, less than 17 percent, or, in other cases, less than 18 percent by volume, may be designated as ''light sherry,'' ''light angelica,'' ''light madeira,'' ''light muscatel'' or ''light port,'' respectively.

(b) *Class 2; sparkling grape wine.* (1) *Sparkling grape wine* (including ''sparkling wine,'' ''sparkling red wine'' and ''sparkling white wine'') is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(2) *Champagne* is a type of sparkling light wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the champagne district of France.

(3)(i) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for ''champagne'' may, in addition to but not in lieu of the class designation ''sparkling wine,'' be further designated as:

(A) ''Champagne style;'' or

(B) ''Champagne type;'' or

(C) ''American (or New York State, Napa Valley, etc.) champagne,'' along with one of the following terms: ''Bulk

process,'' ''fermented outside the bottle,'' ''secondary fermentation outside the bottle,'' ''secondary fermentation before bottling,'' ''not fermented in the bottle,'' or ''not bottle fermented.'' The term ''charmat method'' or ''charmat process'' may be used as additional information.

(ii) Labels shall be so designed that all the words in such further designation are readily legible under ordinary conditions and are on a contrasting background. In the case of paragraph (b)(3)(i)(C) of this section, TTB will consider whether the label as a whole provides the consumer with adequate information about the method of production and origin of the wine. TTB will evaluate each label for legibility and clarity, based on such factors as type size and style for all components of the further designation and the optional term ''charmat method'' or ''charmat process,'' as well as the contrast between the lettering and its background, and the placement of information on the label.

(iii) Notwithstanding the provisions of paragraphs (b)(3)(i)(A), (B) and (C) of this section, the appropriate TTB officer may authorize the use of a term on sparkling wine labels, as an alternative to those terms authorized in paragraph (b)(3)(i) of this section, but not in lieu of the required class designation ''sparkling wine,'' upon a finding that such term adequately informs the consumer about the method of production of the sparkling wine.

(4) *Crackling wine, petillant wine, frizzante wine* (including cremant, perlant, reciotto, and other similar wine) is sparkling light wine normally less effervescent than champagne or other similar sparkling wine, but containing sufficient carbon dioxide in solution to produce, upon pouring under normal conditions, after the disappearance of air bubbles, a slow and steady effervescence evidenced by the formation of gas bubbles flowing through the wine. Crackling wine which derives its effervescence from secondary fermentation in containers greater than 1-gallon capacity shall be designated ''crackling wine—bulk process,'' and the words ''bulk process'' shall appear in lettering of substantially the same size as the words ''crackling wine.''

(c) *Class 3; carbonated grape wine.* *''Carbonated grape wine''* (including *''carbonated wine,'' ''carbonated red wine,''* and *''carbonated white wine''*) is grape wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle.

(d) *Class 4; citrus wine.* (1)(i) *Citrus wine* or *citrus fruit wine* is wine produced by the normal alcoholic fermentation of the juice of sound, ripe citrus fruit (including restored or unrestored pure condensed citrus must), with or without the addition, after fermentation, of pure condensed citrus must, and with or without added citrus brandy or alcohol, but without any other addition or abstraction except as may occur in cellar treatment: *Provided,* That a domestic product may be ameliorated or sweetened in accordance with the provisions of 26 U.S.C. 5384 and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, or in the case of products produced from citrus fruit having a normal acidity of 20 parts or more per thousand, not more than 60 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 14 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content or more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, shall not be, for natural citrus wine, more than 0.14 gram, and for other citrus wine, more than 0.12 gram, per 100 milliliters (20 °C.).

(iii) Any citrus wine containing no added brandy or alcohol may be further designated as ''natural.''

(2) *Citrus table wine* or *citrus fruit table wine* is citrus wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated ''light citrus wine,'' ''light citrus fruit wine,'' ''light sweet citrus fruit wine,'' etc., as the case may be.

(3) *Citrus dessert wine* or *citrus fruit dessert wine* is citrus wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) Citrus wine derived wholly (except for sugar, water, or added alcohol) from one kind of citrus fruit, shall be designated by the word ''wine'' qualified by the name of such citrus fruit, e.g., ''orange wine,'' ''grapefruit wine.'' Citrus wine not derived wholly from one kind of citrus fruit shall be designated as ''citrus wine'' or ''citrus fruit wine'' qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Citrus wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as ''sparkling''; and citrus wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as ''carbonated.''

(e) *Class 5; fruit wine.* (1)(i) *Fruit wine* is wine (other than grape wine or citrus wine) produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (including restored or unrestored pure condensed fruit must), with or without the addition, after fermentation, of pure condensed fruit must, and with or without added fruit brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided,* That a domestic product may be ameliorated or sweetened in accordance with the provisions of 26 U.S.C. 5384 and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of dry sugar and water solution as will increase the volume of the resulting product, in the case of wines produced from any fruit or berry other than grapes, having a normal acidity of 20 parts or more per thousand, not more than 60 percent, and in the case of other fruit wines, not more than 35%, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 14 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, shall not be, for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 milliliters (20 °C.).

(iii) Any fruit wine containing no added brandy or alcohol may be further designated as ''natural.''

(2) *Berry wine* is fruit wine produced from berries.

(3) *Fruit table wine* or *berry table wine* is fruit or berry wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated ''light fruit wine,'' or ''light berry wine.''

(4) *Fruit dessert wine* or *berry dessert wine* is fruit or berry wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(5) Fruit wine derived wholly (except for sugar, water, or added alcohol) from one kind of fruit shall be designated by the word ''wine'' qualified by the name of such fruit, e.g., ''peach wine,'' ''blackberry wine.'' Fruit wine not derived wholly from one kind of fruit shall be designated as ''fruit wine'' or ''berry wine,'' as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines which are derived wholly (except for sugar, water, or added alcohol) from apples or pears may be designated ''cider'' and ''perry,'' respectively, and shall be so designated if lacking in vinous taste, aroma, and characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as ''sparkling''; and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as ''carbonated.''

(f) *Class 6; wine from other agricultural products.* (1)(i) Wine of this class is wine (other than grape wine, citrus wine, or fruit wine) made by the normal alcoholic fermentation of sound fermentable agricultural products, either fresh or dried, or of the restored or

unrestored pure condensed must thereof, with the addition before or during fermentation of a volume of water not greater than the minimum necessary to correct natural moisture deficiencies in such products, with or without the addition, after fermentation, of pure condensed must, and with or without added alcohol or such other spirits as will not alter the character of the product, but without other addition or abstraction except as may occur in cellar treatment: *Provided,* That a domestic product may be ameliorated or sweetened in accordance with part 24, of this chapter, and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation of more than 14 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, shall not be, for natural wine of this class, more than 0.14 gram, and for other wine of this class, more than 0.12 gram, per 100 milliliters (20 °C.).

(iii) Wine of this class containing no added alcohol or other spirits may be further designated as ''natural''.

(2) *Table wine* of this class is wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as ''light''.

(3) *Dessert wine* of this class is wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) *Raisin wine* is wine of this class made from dried grapes.

(5) *Sake* is wine of this class produced from rice in accordance with the commonly accepted method of manufacture of such product.

(6) Wine of this class derived wholly (except for sugar, water, or added alcohol) from one kind of agricultural product shall except in the case of ''sake,'' be designated by the word ''wine'' qualified by the name of such agricultural product, e.g., ''honey wine,'' ''raisin wine,'' ''dried blackberry wine.'' Wine of this class not derived wholly from one kind of agricultural product shall be designated as ''wine'' qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Wine of this class rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of wine within a closed container, tank, or bottle shall be further designated as ''sparkling''; and wine of this class rendered effervescent by carbon dioxide otherwise derived shall be further designated as ''carbonated.''

(g) *Class 7; aperitif wine.* (1) *Aperitif wine* is wine having an alcoholic content of not less than 15 percent by volume, compounded from grape wine containing added brandy or alcohol, flavored with herbs and other natural aromatic flavoring materials, with or without the addition of caramel for coloring purposes, and possessing the taste, aroma, and characteristics generally attributed to aperitif wine and shall be so designated unless designated as ''vermouth'' under paragraph (g)(2) of this section.

(2) *Vermouth* is a type of aperitif wine compounded from grape wine, having the taste, aroma, and characteristics generally attributed to vermouth, and shall be so designated.

(h) *Class 8; imitation and substandard or other than standard wine.* (1) ''Imitation wine'' shall bear as a part of its designation the word ''imitation,'' and shall include:

(i) Any wine containing synthetic materials.

(ii) Any wine made from a mixture of water with residue remaining after thorough pressing of grapes, fruit, or other agricultural products.

(iii) Any class or type of wine the taste, aroma, color, or other characteristics of which have been acquired in whole or in part, by treatment with methods or materials of any kind (except as permitted in §4.22(c)(6)), if the taste, aroma, color, or other characteristics of normal wines of such class or type are acquired without such treatment.

(iv) Any wine made from must concentrated at any time to more than 80° (Balling).

(2) ''Substandard wine'' or ''other than standard wine'' shall bear as a part of its designation the words ''substandard'' or ''other than standard,'' and shall include:

(i) Any wine having a volatile acidity in excess of the maximum prescribed therefor in §§ 4.20 to 4.25.

(ii) Any wine for which no maximum volatile acidity is prescribed in §§ 4.20 to 4.25, inclusive, having a volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, in excess of 0.14 gram per 100 milliliters (20 °C.).

(iii) Any wine for which a standard of identity is prescribed in this §§ 4.20 to 4.25, inclusive, which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard.

(iv) Any ''grape wine'' ''citrus wine,'' ''fruit wine,'' or ''wine from other agricultural products'' to which has been added sugar and water solution in an amount which is in excess of the limitations prescribed in the standards of identity for these products, unless, in the case of ''citrus wine,'' ''fruit wine'' and ''wine from other agricultural products'' the normal acidity of the material from which such wine is produced is 20 parts or more per thousand and the volume of the resulting product has not been increased more than 60 percent by such addition.

(i) *Class 9; retsina wine.* ''Retsina wine'' is grape table wine fermented or flavored with resin.

CROSS REFERENCE: For regulations relating to the use of spirits in wine, see part 24 of this chapter.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960]]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 4.21, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 4.22 Blends, cellar treatment, alteration of class or type.

(a) If the class or type of any wine shall be altered, and if the product as so altered does not fall within any other class or type either specified in §§ 4.20 through 4.25 or known to the trade, then such wine shall, unless otherwise specified in this section, be designated with a truthful and adequate statement of composition in accordance with § 4.34.

(b) Alteration of class or type shall be deemed to result from any of the following occurring before, during, or after production.

(1) Treatment of any class or type of wine with substances foreign to such wine which remain therein: *Provided,* That the presence in finished wine of not more than 350 parts per million of total sulfur dioxide, or sulphites expressed as sulfur dioxide, shall not be precluded under this paragraph.

(2) Treatment of any class or type of wine with substances not foreign to such wine but which remain therein in larger quantities than are naturally and normally present in other wines of the same class or type not so treated.

(3) Treatment of any class or type of wine with methods or materials of any kind to such an extent or in such manner as to affect the basic composition of the wine so treated by altering any of its characteristic elements.

(4) Blending of wine of one class with wine of another class or the blending of wines of different types within the same class.

(5) Treatment of any class or type of wine for which a standard of identity is prescribed in this subpart with sugar or water in excess of the quantities specifically authorized by such standards: *Provided, That* the class or type thereof shall not be deemed to be altered:

(i) Where such wine (other than grape wine) is derived from fruit or other agricultural products having a high normal acidity, if the total solids content is not more than 22 grams per 100 cubic centimeters and the content of natural acid is not less than 7.69 grams per liter, and

(ii) Where such wine is derived exclusively from fruit or other agricultural products the normal acidity of which is 20 parts or more per thousand, if the volume of the resulting product has been increased not more than 60 percent by the addition of sugar and water solution for the sole purpose of correcting natural deficiencies due to such acidity and (except in the case of such

wine when produced from fruit or berries other than grapes) there is stated as part of the class and type designation the phrase ''Made with over 35 percent sugar solution.''

(c) Nothing in this section shall preclude the treatment of wine of any class or type in the manner hereinafter specified, provided such treatment does not result in the alteration of the class or type of the wine under the provisions of paragraph (b) of this section.

(1) Treatment with filtering equipment, and with fining or sterilizing agents.

(2) Treatment with pasteurization as necessary to perfect the wines to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(3) Treatment with refrigeration as necessary to perfect the wine to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(4) Treatment with methods and materials to the minimum extent necessary to correct cloudiness, precipitation, or abnormal color, odor, or flavor developing in wine.

(5) Treatment with constituents naturally present in the kind of fruit or other agricultural product from which the wine is produced for the purpose of correcting deficiencies of these constituents, but only to the extent that such constituents would be present in normal wines of the same class or type not so treated.

(6) Treatment of any class or type of wine involving the use of volatile fruit-flavor concentrates in the manner provided in section 5382 of the Internal Revenue Code.

(7) Notwithstanding the provisions of §4.21(b) (1), (2) and (4), (c), (d)(4), (e)(5), and (f)(6) carbon dioxide may be used to maintain counterpressure during the transfer of finished sparkling wines from (i) bulk processing tanks to bottles, or (ii) bottle to bottle: *Provided*, That the carbon dioxide content of the wine shall not be increased by more than 0.009 gm. per 100 ml. during the transfer operation.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. 6776, 29 FR 16985, Dec. 11, 1964; T.D. 7185, 37 FR 7976, Apr. 22, 1972; T.D. ATF–403, 64 FR 50253, Sept. 16, 1999; T.D. ATF–458, 66 FR 37578, July 19, 2001; T.D. ATF–953, 68 FR 39455, July 2, 2003]

### §4.23 Varietal (grape type) labeling.

(a) *General.* The names of one or more grape varieties may be used as the type designation of a grape wine only if the wine is also labeled with an appellation of origin as defined in §4.25a.

(b) *One variety.* Except as provided in paragraph (c) of this section, the name of a single grape variety may be used as the type designation if not less than 75 percent of the wine is derived from grapes of that variety, the entire 75 percent of which was grown in the labeled appellation of origin area.

(c) *Exceptions.* (1) Wine made from any *Vitis labrusca* variety (exclusive of hybrids with *Vitis labrusca* parentage) may be labeled with the variety name if:

(i) Not less than 51 percent of the wine is derived from grapes of the named variety;

(ii) The statement ''contains not less than 51 percent (name of variety)'' is shown on the brand label, back label, or a separate strip label, (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and

(iii) The entire qualifying percentage of the named variety was grown in the labeled appellation of origin area.

(2) Wine made from any variety of any species found by the appropriate TTB officer upon appropriate application to be too strongly flavored at 75 percent minimum varietal content may be labeled with the varietal name if:

(i) Not less than 51 percent of the wine is derived from grapes of that variety;

(ii) The statement ''contains not less than 51 percent (name of variety)'' is shown on the brand label, back label, or a separate strip label (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and

(iii) The entire qualifying percentage of the named variety was grown in the labeled appellation of origin area.

(d) *Two or more varieties.* The names of two or more grape varieties may be used as the type designation if:

(1) All of the grapes used to make the wine are of the labeled varieties;

(2) The percentage of the wine derived from each variety is shown on the label (with a tolerance of plus or minus 2 percent); and

(3)(i) If labeled with a multicounty appellation of origin, the percentage of the wine derived from each variety from each county is shown on the label; or

(ii) If labeled with a multistate appellation of origin, the percentage of the wine derived from each variety from each state is shown on the label.

(e) *List of approved variety names.* Effective February 7, 1996, the name of a grape variety may be used as a type designation for an American wine only if that name has been approved by the Administrator. A list of approved grape variety names appears in subpart J of this part.

[T.D. ATF–370, 61 FR 538, Jan. 8, 1996]

### § 4.24 Generic, semi-generic, and nongeneric designations of geographic significance.

(a)(1) A name of geographic significance which is also the designation of a class or type of wine, shall be deemed to have become generic only if so found by the Administrator.

(2) Examples of generic names, originally having geographic significance, which are designations for a class or type of wine are: Vermouth, Sake.

(b)(1) A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Administrator. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and if the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations in this part or, if there be no such standard, to the trade understanding of such class or type. See § 24.257(c) of this chapter for exceptions to the Administrator's authority to remove names from paragraph (b)(2) of this section.

(2) Examples of semi-generic names which are also type designations for grape wines are Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut Sauterne, Sherry, Tokay.

(c)(1) A name of geographic significance, which has not been found by the Administrator to be generic or semi-generic may be used only to designate wines of the origin indicated by such name, but such name shall not be deemed to be the distinctive designation of a wine unless the Administrator finds that it is known to the consumer and to the trade as the designation of a specific wine of a particular place or region, distinguishable from all other wines.

(2) Examples of nongeneric names which are not distinctive designations of specific grape wines are: American, California, Lake Erie, Napa Valley, New York State, French, Spanish. Additional examples of foreign nongeneric names are listed in subpart C of part 12 of this chapter.

(3) Examples of nongeneric names which are also distinctive designations of specific grape wines are: Bordeaux Blanc, Bordeaux Rouge, Graves, Medoc, Saint-Julien, Chateau Yquem, Chateau Margaux, Chateau Lafite, Pommard, Chambertin, Montrachet, Rhone, Liebfraumilch, Rudesheimer, Forster, Deidesheimer, Schloss Johannisberger, Lagrima, and Lacryma Christi. A list of foreign distinctive designations, as determined by the Administrator, appears in subpart D of part 12 of this chapter.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF–296, 55 FR 17967, Apr. 30, 1990; T.D. ATF–398, 63 FR 44783, Aug. 21, 1998; T.D. ATF–425, 65 FR 11890, 11891, Mar. 7, 2000]

### § 4.25 Appellations of origin.

(a) *Definition*—(1) *American wine.* An American appellation of origin is: (i) The United States; (ii) a State; (iii) two or no more than three States which are all contiguous; (iv) a county (which

must be identified with the word ''county'', in the same size of type, and in letters as conspicuous as the name of the county); (v) two or no more than three counties in the same States; or (vi) a viticultural area (as defined in paragraph (e) of this section).

(2) *Imported wine.* An appellation of origin for imported wine is: (i) A country, (ii) a state, province, territory, or similar political subdivision of a country equivalent to a state or county; or (iii) a viticultural area.

(b) *Qualification*—(1) *American wine.* An American wine is entitled to an appellation of origin other than a multicounty or multistate appellation, or a viticultural area, if:

(i) At least 75 percent of the wine is derived from fruit or agricultural products grown in the appellation area indicated; (ii) it has been fully finished (except for cellar treatment pursuant to §4.22(c), and blending which does not result in an alteration of class or type under §4.22(b)) in the United States, if labeled ''American''; or, if labeled with a State appellation, within the labeled State or an adjacent State; or if labeled with a county appellation, within the State in which the labeled county is located; and (iii) it conforms to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in such place.

(2) *Imported wine.* An imported wine is entitled to an appellation of origin other than a viticultural area if:

(i) At least 75 percent of the wine is derived from fruit or agricultural products grown in the area indicated by the appellation of origin; and (ii) The wine conforms to the requirements of the foreign laws and regulations governing the composition, method of production, and designation of wines available for consumption within the country of origin.

(c) *Multicounty appellations.* An appellation of origin comprising two or no more than three counties in the same State may be used if all of the fruit or other agricultural products were grown in the counties indicated, and the percentage of the wine derived from fruit or other agricultural products grown in each county is shown on the label with a tolerance of plus or minus two percent.

(d) *Multistate appellation.* An appelation of origin comprising two or no more than three States which are all contiguous may be used, if:

(1) All of the fruit or other agricultural products were grown in the States indicated, and the percentage of the wine derived from fruit or other agricultural products grown in each State is shown on the label with a tolerance of plus or minus two percent;

(2) it has been fully finished (except for cellar treatment pursuant to §4.22(c), and blending which does not result in an alteration of class or type under §4.22(b)) in one of the labeled appellation States; (3) it conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation.

(e) *Viticultural area*—(1) *Definition*—(i) *American wine.* A delimited grape growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of this chapter.

(ii) *Imported wine.* A delimited place or region (other than an appellation defined in paragraph (a)(2)(i) or (a)(2)(ii)) the boundaries of which have been recognized and defined by the country of origin for use on labels of wine available for consumption within the country of origin.

(2) *Establishment of American viticultural areas.* Petitions for establishment of American viticultural areas may be made to the Administrator by any interested party, pursuant to the provisions of §70.701(c) of this title. The petition may be in the form of a letter, and should contain the following information referred to in §9.3(b) of this title.

(3) *Requirements for use.* A wine may be labeled with a viticultural area appellation if:

(i) The appellation has been approved under part 9 of this title or by the appropriate foreign government;

(ii) Not less than 85 percent of the wine is derived from grapes grown within the boundaries of the viticultural area;

(iii) In the case of foreign wine, it conforms to the requirements of the

foreign laws and regulations governing the composition, method of production, and designation of wines available for consumption within the country of origin; and

(iv) In the case of American wine, it has been fully finished within the State, or one of the States, within which the labeled viticultural area is located (except for cellar treatment pursuant to §4.22(c), and blending which does not result in an alteration of class and type under §4.22(b)).

(4) *Overlap viticultural area appellations.* An appellation of origin comprised of more than one viticultural area may be used in the case of overlapping viticultural areas if not less than 85 percent of the volume of the wine is derived from grapes grown in the overlapping area.

[T.D. ATF–53, 43 FR 37675, Aug. 23, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §4.25, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 4.26 Estate bottled.

(a) *Conditions for use.* The term *Estate bottled* may be used by a bottling winery on a wine label only if the wine is labeled with a viticultural area appellation of origin and the bottling winery:

(1) Is located in the labeled viticultural area; (2) grew all of the grapes used to make the wine on land owned or controlled by the winery within the boundaries of the labeled viticultural area; (3) crushed the grapes, fermented the resulting must, and finished, aged, and bottled the wine in a continuous process (the wine at no time having left the premises of the bottling winery).

(b) *Special rule for cooperatives.* Grapes grown by members of a cooperative bottling winery are considered grown by the bottling winery.

(c) *Definition of ''Controlled''.* For purposes of this section, *Controlled by* refers to property on which the bottling winery has the legal right to perform, and does perform, all of the acts common to viticulture under the terms of a lease or similar agreement of at least 3 years duration.

(d) *Use of other terms.* No term other than *Estate bottled* may be used on a label to indicate combined growing and bottling conditions.

[T.D. ATF–53, 43 FR 37676, Aug. 23, 1978, as amended by T.D. ATF–201, 50 FR 12533, Mar. 29, 1985]

### § 4.27 Vintage wine.

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or 3 of §4.21. The wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation must be shown in direct conjunction with the designation required by §4.32(a)(2), in lettering substantially as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date. The following additional rules apply to vintage labeling:

(1) If an American or imported wine is labeled with a viticultural area appellation of origin (or its foreign equivalent), at least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year; or

(2) If an American or imported wine is labeled with an appellation of origin other than a country or viticultural area (or its foreign equivalent), at least 85 percent of the wine must have been derived from grapes harvested in the labeled calendar year.

(b) *American wine.* A permittee who produced and bottled or packed the wine, or a person other than the producer who repackaged the wine in containers of 5 liters or less may show the year of vintage upon the label if the person possesses appropriate records from the producer substantiating the year of vintage and the appellation of origin; and if the wine is made in compliance with the provisions of paragraph (a) of this section.

(c) *Imported wine.* Imported wine may bear a vintage date if all of the following conditions are met:

(1) It is made in compliance with the provisions of paragraph (a) of this section;

(2) It is bottled in containers of 5 liters or less prior to importation, or it is bottled in the United States from the original container of the product (showing a vintage date); and

(3) The invoice is accompanied by, or the American bottler possesses, a certificate issued by a duly authorized official of the country of origin (if the country of origin authorizes the issuance of such certificates) certifying that the wine is of the vintage shown, that the laws of the country regulate the appearance of vintage dates upon the labels of wine produced for consumption within the country of origin, that the wine has been produced in conformity with those laws, and that the wine would be entitled to bear the vintage date if it had been sold within the country of origin.

[T.D. ATF–53, 43 FR 37676, Aug. 23, 1978, as amended by T.D. ATF–195, 50 FR 763, Jan. 7, 1985; T.D. TTB–45, 71 FR 25752, May 2, 2006]

### §4.28 Type designations of varietal significance.

The following are type designations of varietal significance for American wine. These names may be used as type designations for American wines only if the wine is labeled with an appellation of origin as defined in §4.25a.

(a) *Muscadine.* An American wine which derives at least 75 percent of its volume from *Muscadinia rotundifolia* grapes.

(b) *Muscatel.* An American wine which derives its predominant taste, aroma, characteristics and at least 75 percent of its volume from any Muscat grape source, and which meets the requirements of §4.21(a)(3).

(c) *Muscat or Moscato.* An American wine which derives at least 75 percent of its volume from any Muscat grape source.

(d) *Scuppernong.* An American wine which derives at least 75 percent of its volume from bronze *Muscadinia rotundifolia* grapes.

(e)(1) *Gamay Beaujolais.* An American wine which derives at least 75 percent of its volume from Pinot noir grapes, Valdiguié grapes, or a combination of both.

(2) For wines bottled on or after January 1, 1999, and prior to April 9, 2007, the name ''Gamay Beaujolais'' may be used as a type designation only if there appears in direct conjunction therewith, but on a separate line and separated by the required appellation of origin, the name(s) of the grape variety or varieties used to satisfy the requirements of paragraph (e)(1) of this section. Where two varietal names are listed, they shall appear on the same line, in order of predominance. The appellation of origin shall appear either on a separate line between the name ''Gamay Beaujolais'' and the grape variety name(s) or on the same line as the grape variety name(s) in a manner that qualifies the grape variety name(s). The following statement shall also appear on the brand or back label: ''Gamay Beaujolais is made from at least 75 percent Pinot noir and/or Valdiguié grapes.''

(3) The designation ''Gamay Beaujolais'' may not be used on labels of American wines bottled on or after April 9, 2007.

[T.D. ATF–370, 61 FR 539, Jan. 8, 1996, as amended by T.D. ATF–388, 62 FR 16490, Apr. 7, 1997; T.D. ATF–388a, 62 FR 33747, June 23, 1997]

## Subpart D—Labeling Requirements for Wine

### §4.30 General.

(a) *Application.* No person engaged in business as a producer, rectifier, blender, importer, or wholesaler, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine in containers unless such wine is packaged, and such packages are marked, branded, and labeled in conformity with this subpart. Wine domestically bottled or packed prior to Dec. 15, 1936, and imported wine entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded and labeled in accordance with this subpart, if the labels on such wine (1) bear all the mandatory label information

required by § 4.32, even though such information is not set forth in the manner and form as required by § 4.32 and other sections of this title referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(b) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label upon wine held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law, or except as provided in paragraph (b)(2) of this section: *Provided,* That the appropriate TTB officer may, upon written application, permit additional labeling or relabeling of wine for purposes of compliance with the requirements of this part or of State law.

(2) No application for permission to relabel wine need be made in any case where there is added to the container, after removal from customs custody or from the premises where bottled or packed, a label identifying the wholesale or retail distributor thereof, and containing no reference whatever to the characteristics of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D. ATF–953, 68 FR 39455, July 2, 2003]

CROSS REFERENCE: For customs warehouses and control of merchandise therein, see 19 CFR part 19.

### § 4.32 Mandatory label information.

(a) There shall be stated on the brand label:

(1) Brand name, in accordance with § 4.33.

(2) Class, type, or other designation, in accordance with § 4.34.

(3) Alcohol content, in accordance with § 4.36.

(4) On blends consisting of American and foreign wines, if any reference is made to the presence of foreign wine, the exact percentage by volume.

(b) There shall be stated on any label affixed to the container:

(1) Name and address, in accordance with § 4.35.

(2) Net contents, in accordance with § 4.37. If the net contents is a standard of fill other than an authorized metric standard of fill as prescribed in § 4.73, the net contents statement shall appear on a label affixed to the front of the bottle.

(c) There shall be stated on the brand label or on a back label a statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(d) [Reserved]

(e) *Declaration of sulfites.* There shall be stated on a front label, back label, strip label or neck label, the statement ''Contains sulfites'' or ''Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The provisions of this paragraph shall apply to:

(1) Any certificate of label approval issued on or after January 9, 1987;

(2) Any wine bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(3) Any wine removed on or after January 9, 1988.

(Paragraph (e) approved by the Office of Management and Budget under Control Number 1512–0469)

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF–150, 48 FR 45556, Oct. 6, 1983; T.D. ATF–195, 50 FR 763, Jan. 7, 1985; T.D. ATF–220, 50 FR 51852, Dec. 20, 1985; T.D. ATF–236, 51 FR 34710, Sept. 30, 1986; T.D. ATF–282, 54 FR 7162, Feb. 16, 1989; T.D. ATF–312, 56 FR 31076, 31077, July 9, 1991; T.D. TTB–12, 69 FR 33573, June 16, 2004]

### § 4.32a Voluntary disclosure of major food allergens.

(a) *Definitions.* For purposes of this section the following terms have the meanings indicated.

(1) *Major food allergen. Major food allergen* means any of the following:

(i) Milk, egg, fish (for example, bass, flounder, or cod), Crustacean shellfish (for example, crab, lobster, or shrimp), tree nuts (for example, almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food specified in paragraph (a)(1)(i) of this section, except:

(A) Any highly refined oil derived from a food specified in paragraph

(a)(1)(i) of this section and any ingredient derived from such highly refined oil; or

(B) A food ingredient that is exempt from major food allergen labeling requirements pursuant to a petition for exemption approved by the Food and Drug Administration (FDA) under 21 U.S.C. 343(w)(6) or pursuant to a notice submitted to FDA under 21 U.S.C. 343(w)(7), provided that the food ingredient meets the terms or conditions, if any, specified for that exemption.

(2) *Name of the food source from which each major food allergen is derived. Name of the food source from which each major food allergen is derived* means the name of the food as listed in paragraph (a)(1)(i) of this section, except that:

(i) In the case of a tree nut, it means the name of the specific type of nut (for example, almonds, pecans, or walnuts);

(ii) In the case of Crustacean shellfish, it means the name of the species of Crustacean shellfish (for example, crab, lobster, or shrimp); and

(iii) The names ''egg'' and ''peanuts'', as well as the names of the different types of tree nuts, may be expressed in either the singular or plural form, and the term ''soy'', soybean'', or ''soya'' may be used instead of ''soybeans''.

(b) *Voluntary labeling standards.* Major food allergens (defined in paragraph (a)(1) of this section) used in the production of a wine may, on a voluntary basis, be declared on any label affixed to the container. However, if any one major food allergen is voluntarily declared, all major food allergens used in production of the wine, including major food allergens used as fining or processing agents, must be declared, except when covered by a petition for exemption approved by the appropriate TTB officer under §4.32b. The major food allergens declaration must consist of the word ''Contains'' followed by a colon and the name of the food source from which each major food allergen is derived (for example, ''Contains: egg'').

(c) *Cross reference.* For mandatory labeling requirements applicable to wines containing FD&C Yellow No. 5 and sulfites, see §§4.32(c) and (e).

[T.D. TTB–53, 71 FR 42267, July 26, 2006]

## §4.32b Petitions for exemption from major food allergen labeling.

(a) *Submission of petition.* Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of §4.32a. The burden is on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(2) Does not contain allergenic protein derived from one of the foods identified in §4.32a(a)(1)(i), even though a major food allergen was used in production.

(b) *Decision on petition.* TTB will approve or deny a petition for exemption submitted under paragraph (a) of this section in writing within 180 days of receipt of the petition. If TTB does not provide a written response to the petitioner within that 180-day period, the petition will be deemed denied, unless an extension of time for decision is mutually agreed upon by the appropriate TTB officer and the petitioner. TTB may confer with the Food and Drug Administration (FDA) on petitions for exemption, as appropriate and as FDA resources permit. TTB may require the submission of product samples and other additional information in support of a petition; however, unless required by TTB, the submission of samples or additional information by the petitioner after submission of the petition will be treated as the withdrawal of the initial petition and the submission of a new petition. An approval or denial under this section will constitute a final agency action.

(c) *Resubmission of a petition.* After a petition for exemption is denied under this section, the petitioner may resubmit the petition along with supporting materials for reconsideration at any time. TTB will treat this submission as a new petition for purposes of the time frames for decision set forth in paragraph (b) of this section.

(d) *Availability of information*—(1) *General.* TTB will promptly post to its public Web site, *http://www.ttb.gov,* all petitions received under this section as well as TTB's responses to those petitions. Any information submitted in support of the petition that is not posted to the TTB Web site will be available to the public pursuant to 5 U.S.C. 552, except where a request for confidential treatment is granted under paragraph (d)(2) of this section.

(2) *Requests for confidential treatment of business information.* A person who provides trade secrets or other commercial or financial information in connection with a petition for exemption under this section may request that TTB give confidential treatment to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

[T.D. TTB–53, 71 FR 42267, July 26, 2006]

## § 4.33 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate TTB officer finds that such brand name, either when qualified by the word ''brand'' or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935: *Provided,* That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualifications shall be in script, type, or printing as conspicuous as the trade name or brand.

## § 4.34 Class and type.

(a) The class of the wine shall be stated in conformity with subpart C of this part if the wine is defined therein, except that ''table'' (''light'') and ''dessert'' wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any varietal (grape type) designation, type designation of varietal significance, semigeneric geographic type designation, or geographic distinctive designation, to which the wine may be entitled. In the case of champagne, or crackling wines, the type designation ''champagne'' or ''crackling wine'' (''petillant wine'', ''frizzante wine'') may appear in lieu of the class designation ''sparkling wine''. In the case of wine which has a total solids content of more than 17 grams per 100 cubic centimeters the words ''extra sweet'', ''specially sweetened'', ''specially sweet'' or ''sweetened with

excess sugar'' shall be stated as a part of the class and type designation. The last of these quoted phrases shall appear where required by part 24 of this chapter, on wines sweetened with sugar in excess of the maximum quantities specified in such regulations. If the class of the wine is not defined in subpart C, a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. The statement of composition will not include any reference to a varietal (grape type) designation, type designation of varietal significance, semi-generic geographic type designation, or geographic distinctive designation. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An appellation of origin such as ''American,'' ''New York,'' ''Napa Valley,'' or ''Chilean,'' disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation if:

(1) A varietal (grape type) designation is used under the provisions of §4.23;

(2) A type designation of varietal significance is used under the provisions of §4.28;

(3) A semi-generic type designation is employed as the class and type designation of the wine pursuant to §4.24(b);

(4) A product name is qualified with the word ''Brand'' under the requirements of §4.39 (j); or

(5) The wine is labeled with the year of harvest of the grapes, and otherwise conforms with the provisions of §4.27. The appellation of origin for vintage wine shall be other than a country.

[T.D. ATF–53, 43 FR 37677, Aug. 23, 1978; T.D. ATF–48, 44 FR 55839, Sept. 28, 1979, as amended by T.D. ATF–195, 50 FR 763, Jan. 7, 1985; T.D. ATF–229, 51 FR 20482, June 5, 1986; T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–370, 61 FR 539, Jan. 8, 1996; T.D. ATF–431, 65 FR 59724, Oct. 6, 2000]

## §4.35 Name and address.

(a) *American wine*—(1) *Mandatory statement.* A label on each container of American wine shall state either ''bottled by'' or ''packed by'' followed by the name of the bottler or packer and the address (in accordance with paragraph (c)) of the place where the wine was bottled or packed. Other words may also be stated in addition to the required words ''bottled by'' or ''packed by'' and the required name and address if the use of such words is in accordance with paragraph (a)(2) of this section.

(2) *Optional statements.* (i) In addition to the statement required by paragraph (a)(1), the label may also state the name and address of any other person for whom the wine was bottled or packed, immediately preceded by the words ''bottled for'' or ''packed for'' or ''distributed by.''

(ii) The words defined in paragraphs (a)(2)(iii)–(a)(2)(vi) may be used, in accordance with the definitions given, in addition to the name and address statement required by paragraph (a)(1). Use of these words may be conjoined, using the word ''and'', and with the words ''bottled by'' or ''packed by'' only if the same person performed the defined operation at the same address. More than one name is necessary if the defined operation was performed by a person other than the bottler or packer and more than one address statement is necessary if the defined operation was performed at a different address.

(iii) *Produced* or *Made* means that the named winery:

(A) Fermented not less than 75% of such wine at the stated address, or

(B) Changed the class or type of the wine by addition of alcohol, brandy, flavors, colors, or artificial carbonation at the stated address, or

(C) Produced sparkling wine by secondary fermentation at the stated address.

(iv) *Blended* means that the named winery mixed the wine with other wines of the same class and type at the stated address.

(v) *Cellared, Vinted* or *Prepared* means that the named winery, at the stated address, subjected the wine to cellar treatment in accordance with §4.22(c).

(b) *Imported wine*—(1) *Mandatory statements.* (i) A label on each container of imported wine shall state ''imported by'' or a similar appropriate phrase, followed immediately by the name of the importer, agent, sole distributor, or other person responsible for the importation, followed immediately by the address of the principal place of business in the United States of the named person.

(ii) If the wine was bottled or packed in the United States, the label shall also state one of the following:

(A) ''Bottled by'' or ''packed by'' followed by the name of the bottler or packer and the address (in accordance with paragraph (c)) of the place where the wine was bottled or packed; or

(B) If the wine was bottled or packed for the person responsible for the importation, the words ''imported by and bottled (packed) in the United States for'' (or a similar appropriate phrase) followed by the name and address of the principal place of business in the United States of the person responsible for the importation; or

(C) If the wine was bottled or packed by the person responsible for the importation, the words ''imported and bottled (packed) by'' followed by the name and address of the principal place of business in the United States of the person responsible for the importation.

(iii) If the wine was blended, bottled or packed in a foreign country other than the country of origin, and the label identifies the country of origin, the label shall state ''blended by,'' ''bottled by,'' or ''packed by,'' or other appropriate statement, followed by the name of the blender, bottler or packer and the place where the wine was blended, bottled or packed.

(2) *Optional statements.* In addition to the statements required by paragraph (b) (1), the label may also state the name and address of the principal place of business of the foreign producer. Other words, or their English-language equivalents, denoting winemaking operations may be used in accordance with the requirements of the country of origin, for wines sold within the country of origin.

(c) *Form of address.* The ''place'' stated shall be the post office address shown on the basic permit or other qualifying document of the premises at which the operations took place; and there shall be shown the address for each operation which is designated on the label. An example of such use would be ''Produced at Gilroy, California, and bottled at San Mateo, California, by XYZ Winery,'' except that the street address may be omitted. No additional places or addresses shall be stated for the same person unless:

(1) Such person is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and

(2) The label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) *Trade or operating names.* The trade or operating name of any person appearing upon any label shall be identical with a name appearing on the basic permit or other qualifying document.

(e) The provisions of this section are optional until they become mandatory July 27, 1994.

[T.D. ATF–328, 57 FR 33114, July 27, 1992; 57 FR 37591, Aug. 19, 1992. Redesignated by T.D. ATF–953, 68 FR 39455, July 2, 2003]

### § 4.36 Alcoholic content.

(a) Alcoholic content shall be stated in the case of wines containing more than 14 percent of alcohol by volume, and, in the case of wine containing 14 percent or less of alcohol by volume, either the type designation ''table'' wine (''light'' wine) or the alcoholic content shall be stated. Any statement of alcoholic content shall be made as prescribed in paragraph (b) of this section.

(b) Alcoholic content shall be stated in terms of percentage of alcohol by volume, and not otherwise, as provided in either paragraph (b)(1) or (2) of this section:

(1) ''Alcohol ____ % by volume,'' or similar appropriate phrase; *Provided,* that if the word ''alcohol'' and/or ''volume'' are abbreviated, they shall be shown as ''alc.'' (alc) and/or ''vol.'' (vol), respectively. Except as provided in paragraph (c) of this section, a tolerance of 1 percent, in the case of wines

containing more than 14 percent of alcohol by volume, and of 1.5 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted either above or below the stated percentage.

(2) ''Alcohol ___ % to ___ % by volume,'' or similar appropriate phrase; *Provided,* that if the word ''alcohol'' and/or ''volume'' are abbreviated, they shall be shown as ''alc.'' (alc) and/or ''vol.'' (vol), respectively. Except as provided in paragraph (c) of this section, a range of not more than 2 percent, in the case of wines containing more than 14 percent of alcohol by volume, and of not more than 3 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted between the minimum and maximum percentages stated, and no tolerances will be permitted either below such minimum or above such maximum.

(c) Regardless of the type of statement used and regardless of tolerances normally permitted in direct statements and ranges normally permitted in maximum and minimum statements, alcoholic content statements, whether required or optional, shall definitely and correctly indicate the class, type and taxable grade of the wine so labeled and nothing in this section shall be construed as authorizing the appearance upon the labels of any wine of an alcoholic content statement in terms of maximum and minimum percentages which overlaps a prescribed limitation on the alcoholic content of any class, type, or taxable grade of wine, or a direct statement of alcoholic content which indicates that the alcoholic content of the wine is within such a limitation when in fact it is not.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF–275, 53 FR 27046, July 18, 1988]

### §4.37 Net contents.

(a) *Statement of net contents.* The net contents of wine for which a standard of fill is prescribed in §4.73 shall be stated in the same manner and form as set forth in the standard of fill. The net content of wine for which no standard of fill is prescribed in §4.73 shall be stated in the metric system of measure as follows:

(1) If more than one liter, net contents shall be stated in liters and in decimal portions of a liter accurate to the nearest one-hundredth of a liter.

(2) If less than one liter, net contents shall be stated in milliliters (ml).

(b) *Statement of U.S. equivalent net contents.* When net contents of wine are stated in metric measure, the equivalent volume in U.S. measure may also be shown. If shown, the U.S. equivalent volume will be shown as follows:

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 500 ml (16.9 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces will be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml (23.7 fl. oz.).

(3) Equivalent volumes of 100 fluid ounces or more will be stated in fluid ounces only, accurate to the nearest whole fluid ounce; for example, 6 liters (203 fl. oz.).

(c) *Net contents marked in bottle.* The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the appropriate TTB officer, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(d) *Tolerances.* Statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers, resulting solely from unavoidable difficulties in manufacturing such

containers so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(e) *Unreasonable shortages.* Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

[T.D. ATF–12, 39 FR 45222, Dec. 31, 1974, as amended by T.D. ATF–49, 43 FR 19848, May 9, 1978; T.D. ATF–76, 46 FR 1727, Jan. 7, 1981; T.D. ATF–303, 55 FR 42713, Oct. 23, 1990]

### § 4.38 General requirements.

(a) *Legibility.* All labels shall be so designed that all the statements thereon required by §§ 4.30 through 4.39 are readily legible under ordinary conditions, and all such statement shall be on a contrasting background.

(b) *Size of type.* (1) Containers of more than 187 milliliters. All mandatory information required on labels by this part, except the alcoholic content statement, shall be in script, type, or printing not smaller than 2 millimeters; except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(2) Containers of 187 milliliters or less. All mandatory information required on labels by this part, except the alcoholic content statement, shall not be smaller than 1 millimeter, except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(3) Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 3 millimeters nor smaller than 1 millimeter on labels of containers having a capacity of 5 liters or less and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language, except that the brand name, the place of production, and the name of the manufacturer, producer, blender, bottler, packer, or shipper appearing on the label need not be in the English language if the words ''product of'' immediately precede the name of the country of origin stated in accordance with customs requirements. Additional statements in foreign languages may be made on labels, if they do not in any way conflict with, or contradict the requirements of §§ 4.30 through 4.39.

(d) *Location of label.* Labels shall not obscure Government stamps nor be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 4.30 through 4.39, if such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by this part. In addition, information which is truthful, accurate, and specific, and which is neither disparaging nor misleading may appear on wine labels.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30 through 4.39 or percentage statements required or permitted by this part) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in its production, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation,

the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the appropriate TTB officer, there shall be submitted a full and accurate statement of the contents of the containers to which labels are to be or have been affixed.

[T.D. ATF–53, 43 FR 37677, Aug. 23, 1978, as amended by T.D. ATF–66, 45 FR 40544, June 13, 1980; T.D. ATF–94, 46 FR 55095, Nov. 6, 1981; T.D. ATF–249, 52 FR 5955, Feb. 27, 1987; T.D. ATF–275, 53 FR 27046, July 18, 1988; T.D. ATF–312, 56 FR 31077, July 9, 1991]

### §4.38a Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§4.30 through 4.39 on labels.

(b) *Sealed cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than a shipping container), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, e.g. by ''Brand'' or ''Product of U.S.A.'', must also display such modification.

(3) Wines for which a truthful and adequate statement of composition is required must display such statement.

[T.D. ATF–36, 41 FR 47425, Oct. 29, 1976]

### §4.39 Prohibited practices.

(a) *Statements on labels.* Containers of wine, or any label on such containers, or any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization; *Provided,* That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, blender, rectifier, importer, wholesaler, retailer, bottler, or warehouseman of wine, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation (other than a statement of alcohol content in conformity with

§ 4.36), which tends to create the impression that a wine:

(i) Contains distilled spirits;

(ii) Is comparable to a distilled spirit; or

(iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein.

(8) Any coined word or name in the brand name or class and type designation which simulates, imitates, or which tends to create the impression that the wine so labeled is entitled to bear, any class, type, or permitted designation recognized by the regulations in this part unless such wine conforms to the requirements prescribed with respect to such designation and is in fact so designated on its labels.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or created the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base. Examples of such words are: ''Manhattan,'' ''Martini,'' and ''Daquiri'' in a class and type designation or brand name of a wine cocktail; ''Cuba Libre,'' ''Zombie,'' and ''Collins'' in a class and type designation or brand name of a wine specialty or wine highball; ''creme,'' ''cream,'' ''de,'' or ''of'' when used in conjunction with ''menthe,'' ''mint,'' or ''cacao'' in a class and type designation or a brand name of a mint or chocolate flavored wine specialty.

(b) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of § 4.27; (2) references relating to methods of wine production involving storage or aging in accordance with § 4.38(f); or (3) use of the word ''old'' as part of a brand name.

(c) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears in lettering not greater than 8-point Gothic caps and in the following form: ''Bottled in ____'' (inserting the year in which the wine was bottled).

(d) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (b) and (c) of this section with respect to statement of vintage year and bottling date, shall be stated on any label unless in addition thereto and in direct conjunction therewith in the same size and kind of printing, there shall be stated an explanation of the significance thereof such as ''established'' or ''founded in''. If any such date refers to the date of establishment of any business or brand name, it shall not be stated, in the case of containers of a capacity of 5 liters or less, in any script, type, or printing larger than 2 millimeters, and shall be stated in direct conjunction with the name of the person, company, or brand name to which it refers if the appropriate TTB officer finds that this is necessary in order to prevent confusion as to the person, company, or brand name to which the establishment date is applicable.

(e) *Simulation of Government stamps.* (1) No labels shall be of such design as to resemble or simulate a stamp of the United States Government or any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the wine contained in the labeled container is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State or Federal Government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State or municipal law or regulation, or is required or specifically authorized by the laws or regulations of a foreign country. If the municipal, State, or Federal Government permit number is stated upon a label, it shall not be accompanied by any additional statement relating thereto.

(2) Bonded wine cellar and bonded winery numbers may be stated but only in direct conjunction with the name and address of the person operating such wine cellar or winery. Statement of bonded wine cellar or winery numbers may be made in the

following form: ''Bonded Wine Cellar No. ____'', ''Bonded Winery No. ____'', ''B. W. C. No. ____'', ''B. W. No. ____''. No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(3) If imported wines are covered by a certificate of origin and/or a certificate of vintage date issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statements relating thereto. The reference to such certificate or certification shall be substantially in the following form:

This product accompanied at the time of the importation by a certificate issued by the

_____

(Name of government)

government indicating that the product is

_____

(Class and type as stated on the label)

and (if label bears a statement of vintage date) that the wine is of the vintage of

_____

(Year of vintage stated on the label)

(f) *Use of the word ''Importer'', or similar words.* The word *Importer,* or similar words, shall not be stated on labels on containers of domestic wine except as part of the bona fide name of a permittee for or by whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided,* That in all cases where such words are used as part of such name, there shall be stated on the same label the words ''Product of the United States'', or similar words to negative any impression that the product is imported, and such negative statement shall appear in the same size and kind of printing as such name.

(g) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) *Health-related statements*—(1) *Definitions.* When used in this paragraph (h), terms are defined as follows:

(i) *Health-related statement* means any statement related to health (other than the warning statement required by §16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, wine, or any substance found within the wine, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, wine, or any substance found within the wine, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the wine, as well as statements and claims of nutritional value (*e.g.,* statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the wine, alcohol, or any substance found within the wine, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which

they are presented, that a relationship exists between wine, alcohol, or any substance found within the wine, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption.

(2) *Rules for labeling*—(i) *Health-related statements.* In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(ii) *Specific health claims.* (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a wine label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a wine label.

(B) TTB will approve the use of a specific health claim on a wine label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of wine or alcohol consumption; and

(B)(*1*) Includes as part of the health-related directional statement the following disclaimer: ''This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;'' or

(*2*) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(i) *Geographic brand names.* (1) Except as provided in subparagraph 2, a brand name of viticultural significance may not be used unless the wine meets the appellation of origin requirements for the geographic area named.

(2) For brand names used in existing certificates of label approval issued prior to July 7, 1986:

(i) The wine shall meet the appellation of origin requirements for the geographic area named; or

(ii) The wine shall be labeled with an appellation of origin in accordance with § 4.34(b) as to location and size of type of either:

(A) A county or a viticultural area, if the brand name bears the name of a geographic area smaller than a state, or;

(B) A state, county or a viticultural area, if the brand name bears a state name; or

(iii) The wine shall be labeled with some other statement which the appropriate TTB officer finds to be sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of the origin of the wine.

(3) A name has viticultural significance when it is the name of a state or county (or the foreign equivalents), when approved as a viticultural area in part 9 of this chapter, or by a foreign government, or when found to have viticultural significance by the appropriate TTB officer.

(j) *Product names of geographical significance (not mandatory before January 1, 1983).* The use of product names with specific geographical significance is prohibited unless the appropriate TTB officer finds that because of their long usage, such names are recognized by

consumers as fanciful product names and not representations as to origin. In such cases the product names shall be qualified with the word ''brand'' immediately following the product name, in the same size of type, and as conspicuous as the product name itself. In addition, the label shall bear an appellation of origin under the provisions of §4.34(b), and, if required by the appropriate TTB officer, a statement disclaiming the geographical reference as a representation as to the origin of the wine.

(k) *Other indications of origin.* Other statements, designs, devices or representations which indicate or infer an origin other than the true place of origin of the wine are prohibited.

(l) *Foreign terms.* Foreign terms which: (1) Describe a particular condition of the grapes at the time of harvest (such as ''Auslese,'' ''Eiswein,'' and ''Trockenbeerenauslese''); or (2) denote quality under foreign law (such as ''Qualitatswein'' and ''Kabinett'') may not be used on the labels of American wine.

(m) *Use of a vineyard, orchard, farm or ranch name.* When used in a brand name, a vineyard, orchard, farm or ranch name having geographical or viticultural significance is subject to the requirements of §§4.33(b) and 4.39(i) of this part. Additionally, the name of a vineyard, orchard, farm or ranch shall not be used on a wine label, unless 95 percent of the wine in the container was produced from primary winemaking material grown on the named vineyard, orchard, farm or ranch.

(n) *Use of a varietal name, type designation of varietal significance, semi-generic name, or geographic distinctive designation.* Labels that contain in the brand name, product name, or distinctive or fanciful name, any varietal (grape type) designation, type designation of varietal significance, semi-generic geographic type designation, or geographic distinctive designation, are misleading unless the wine is made in accordance with the standards prescribed in classes 1, 2, or 3 of §4.21. Any other use of such a designation on other than a class 1, 2, or 3 wine is presumed misleading.

[T.D. 6521, 25 FR 13841, Dec. 29, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §4.39, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## Subpart E—Requirements for Withdrawal of Wine From Customs Custody

### §4.40 Label approval and release.

(a) *Certificate of label approval.* No imported beverage wine in containers shall be released from U.S. Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, TTB Form 5100.31.

(b) If the original or photostatic copy of TTB Form 5100.31 has been approved, the brand or lot of imported wine bearing labels identical with those shown thereon may be released from U.S. Customs custody.

(c) *Relabeling.* Imported wine in U.S. Customs custody which is not labeled in conformity with certificates of label approval issued by the appropriate TTB officer must be relabeled prior to release under the supervision and direction of Customs officers of the port at which the wine is located.

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–66, 45 FR 40546, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55095, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–359, 59 FR 42160, Aug. 17, 1994; T.D. ATF–406, 64 FR 2128, Jan. 13, 1999]

### §4.45 Certificates of origin, identity and proper cellar treatment.

(a) *Origin and identity.* Imported wine shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such wine has been authorized by the foreign government concerned, certifying as to the identity of the wine and that the wine has been produced in compliance with

the laws of the respective foreign government regulating the production of such wine for home consumption.

(b) *Certification of proper cellar treatment of natural wine*—(1) *General.* An importer of wine may be required to have in his or her possession at the time of release of the wine from customs custody a certification or may have to comply with other conditions prescribed in § 27.140 of this chapter regarding proper cellar treatment. If imported wine requires a certification under § 27.140, the importer must provide a copy of that certification to TTB as follows:

(i) The importer must attach a copy of the certification to the application for a certificate of label approval for the wine in question submitted under § 13.21 of this chapter; or

(ii) If a certification for the wine in question was not available when the importer submitted the application for label approval, the importer must submit a copy of the certification to the appropriate TTB officer prior to release from customs custody of the first shipment of the wine.

(2) *Validity of certification.* A certification submitted under paragraph (b)(1) of this section is valid as long as the wine is of the same brand and class or type, was made by the same producer, was subjected to the same cellar treatment, and conforms to the statements made on the certification. Accordingly, if the cellar treatment of the wine changes and a new certification under § 27.140 is required, an importer is required to submit a new certification for the wine even though it is subject to the same label approval.

(3) *Use of certification.* TTB may use the information from a certification for purposes of verifying the appropriate class and type designation of the wine under the labeling provisions of this part. TTB will make certifications submitted under paragraph (b)(1) of this section available to the public on the TTB Internet Web site at *www.ttb.gov.*

[ T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. TTB–31, 70 FR 49482, Aug. 24, 2005]

### § 4.46 Certificate of nonstandard fill.

A person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is:

(a) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(b) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(c) Exempt from the standard of fill requirements as provided by § 4.70(b)(1) or (2).

[T.D. ATF–76, 46 FR 1727, Jan. 7, 1981]

## Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

### § 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in U.S. Customs custody, or remove such wine from the plant where bottled or packed, unless an approved certificate of label approval, TTB Form 5100.31, is issued by the appropriate TTB officer.

(b) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application the bottler or packer shows to the satisfaction of the appropriate TTB officer that the wine to be bottled or packed is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. Application for exemption shall be made on TTB Form 5100.31 in accordance with instructions on the form. If the application is approved, a certificate of exemption will be issued on the same form.

(c) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, and certificates of exemption from label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–66, 45 FR 40546, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55095, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–344, 58 FR 40354, July 28, 1993; T.D. ATF–406, 64 FR 2128, Jan. 13, 1999; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000]

### §4.51 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval or a certificate of exemption shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government.

### §4.52 Photoprints.

Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable, for the purposes of §§4.50 through 4.52, as substitutes for an original or duplicate original of a certificate of label approval, or a certificate of exemption. The appropriate TTB officer will, upon the request of the bottler or packer, issue duplicate originals of certificates of label approval or of certificates of exemption if wine under the same brand is bottled or packed at more than one plant by the same person, and if the necessity for the duplicate originals is shown and there is listed with the appropriate TTB officer the name and address of the additional bottling or packing plant where the particular label is to be used.

## Subpart G—Advertising of Wine

### §4.60 Application.

No person engaged in the business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio or television broadcast, or in any newspaper, periodical, or any publication, by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of wine, if such advertising is in, or is calculated to induce sale in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§4.60–4.65 of this part. Provided, that such sections shall not apply to outdoor advertising in place on September 7, 1984, but shall apply upon replacement, restoration, or renovation of any such advertising; and provided further, that such sections shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television broadcast, unless such retailer or publisher or radio or television broadcaster is engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly, or through an affiliate.

[T.D. ATF–180, 49 FR 31672, Aug. 8, 1984]

### §4.61 Definitions.

As used in §§4.60 through 4.65 of this part, the term *advertisement* includes any written or verbal statement, illustration, or depiction which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or othe outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any container of wine, or any individual covering, carton, or other wrapper of such container which constitute a part of the labeling under provisions of §§4.30–4.39 of this part.

(b) Any editorial or other reading material (*i.e.*, news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

[T.D. ATF–180, 49 FR 31672, Aug. 8, 1984]

### §4.62 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class, type, and distinctive designation.* The advertisement shall contain a conspicuous statement of the class, type, or distinctive designation to

which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required to appear on the label of the product.

(c) *Exception.* (1) If an advertisement refers to a general wine line or all of the wine products of one company, whether by the company name or by the brand name common to all the wine in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of wine is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF–180, 49 FR 31672, Aug. 8, 1984]

### § 4.63 Legibility of mandatory information.

(a) Statements required under §§ 4.60 through 4.65 of this part to appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(d) Mandatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audio-visual media that it will be readily apparent to the persons viewing the advertisement.

[T.D. ATF–180, 49 FR 31672, Aug. 8, 1984]

### § 4.64 Prohibited practices.

(a) *Restrictions.* The advertisement of wine shall not contain:

(1) Any statement that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) Any statement that the wine is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State, or Federal Government authorization, law, or regulations; and if a municipal, State, or Federal permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: ''Bonded Winecellar No. ___,'' ''Bonded Winery No. ___,'' ''B. W. C. No. ___,'' ''B. W. No. ___.'' No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(8) Any statement, design, device, or representation which relates to alcohol

content or which tends to create the impression that a wine:

(i) Contains distilled spirits; or

(ii) Is comparable to a distilled spirit; or

(iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein. Further, an approved wine label, which bears the statement of alcohol content may be depicted in any advertising media, or an actual wine bottle showing the approved label bearing the statement of alcoholic content may be displayed in any advertising media.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base.

(b) *Statements inconsistent with labeling.* (1) Advertisements shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(2) Any label depicted on a bottle in an advertisement shall be a reproduction of an approved label.

(c) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of §4.27; (2) references in accordance with §4.38(f); or (3) use of the word ''old'' as part of a brand name.

(d) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form: ''Bottled in ___'' (inserting the year in which the wine was bottled).

(e) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (c) and (d) of this section, with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and in direct conjunction therewith, in the same size and kind of printing there shall be stated an explanation of the significance of such date: *Provided,* That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(f) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crests, or insignia is associated.

(g) *Statements indicative of origin.* No statement, design, device, or representation which tends to create the impression that the wine originated in a particular place or region, shall appear in any advertisement unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement in direct conjunction with the class and type designation.

(h) *Use of the word ''importer'' or similar words.* The word *importer* or similar words shall not appear in advertisements of domestic wine except as part of the bona fide name of the permittee by or for whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided,* That in all cases where such words are used as part of such name, there shall be stated the words ''Product of the United States'' or similar words to negate any impression that the product is imported, and such negating statements shall appear in the same size and kind of printing as such name.

(i) *Health-related statements*—(1) *Definitions.* When used in this paragraph (i), terms are defined as follows:

(i) *Health-related statement* means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, wine, or any substance found within the wine, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, wine, or any substance found within the wine, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the wine, as well as statements and claims of nutritional value (*e.g.,* statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the wine, alcohol, or any substance found within the wine, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between wine, alcohol, or any substance found within the wine, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption.

(2) *Rules for advertising*—(i) *Health-related statements.* In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) *Specific health claims.* A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of wine or alcohol consumption; and

(B)(*1*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: ''This statement should not encourage you to drink or increase your alcohol consumption for health reasons;'' or

(*2*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(j) *Confusion of brands.* Two or more different brands or lots of wine shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper,

or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§4.60 through 4.64 or are in any respect untrue.

(k) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. ''Subliminal or similar techniques,'' as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

[T.D. 6521, 25 FR 13843, Dec. 29, 1960, as amended by T.D. 6976, 33 FR 15025, Oct. 8, 1968; T.D. ATF–53, 43 FR 37678, Aug. 23, 1978; T.D. ATF–180, 49 FR 31672, Aug. 8, 1984; TTB T.D.–1, 68 FR 10103, Mar. 3, 2003]

### §4.65 Comparative advertising.

(a) *General.* Comparative adverstising shall not be disparaging of a competitor's product.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the *Manual on Sensory Testing Methods,* ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68–15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

[T.D. ATF–180, 49 FR 31673, Aug. 8, 1984]

## Subpart H—Standards of Fill for Wine

### §4.70 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70 through 4.73 do not apply to:

(1) Sake;

(2) Wine packed in containers of 18 liters or more;

(3) Imported wine in the original containers in which entered customs custody if the wine was bottled or packed before January 1, 1979; or

(4) Wine domestically bottled or packed, either in or out of customs custody, before October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Section 4.73 does not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by §4.72.

[T.D. ATF–12, 39 FR 45222, Dec. 31, 1974, as amended by T.D. ATF–49, 43 FR 19848, May 9, 1978; T.D. ATF–76, 46 FR 1727, Jan. 7, 1981]

### §4.71 Standard wine containers.

(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design.* It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use; and

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in §4.72 or §4.73; and

(3) *Headspace.* It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net content of the container is 187 milliliters or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

[T.D. ATF–12, 39 FR 45222, Dec. 31, 1974]

### § 4.72 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

| | |
|---|---|
| 3 liters. | 375 milliliters. |
| 1.5 liters. | 187 milliliters. |
| 1 liter. | 100 milliliters. |
| 750 milliliters. | 50 milliliters. |
| 500 milliliters. | |

(b) *Sizes larger than 3 liters.* Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.).

(c) *Tolerances.* The tolerances in fill are the same as are allowed by § 4.37 in respect to statement of net contents on labels.

[T.D. ATF–12, 39 FR 45223, Dec. 31, 1974, as amended by T.D. ATF–49, 43 FR 19848, May 9, 1978; T.D. ATF–76, 46 FR 1727, Jan. 7, 1981; T.D. ATF–303, 55 FR 42713, Oct. 23, 1990. Redesignated by T.D. ATF–953, 68 FR 39455, July 2, 2003]

## Subpart I—General Provisions

### § 4.80 Exports.

The regulations in this part shall not apply to wine exported in bond.

## Subpart J—American Grape Variety Names

SOURCE: T.D. ATF–370, 61 FR 539, Jan. 8, 1996, unless otherwise noted.

### § 4.91 List of approved prime names.

The following grape variety names have been approved by the Administrator for use as type designations for American wines. When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime grape names. Grape variety names may appear on labels of wine in upper or in lower case, and may be spelled with or without the hyphens or diacritic marks indicated in the following list.

*Aglianico*
*Agwam*
*Albariño (Alvarinho)*
*Albemarle*
*Aleatico*
*Alicante Bouschet*
*Aligoté*
*Alvarelhão*
*Alvarinho (Albariño)*
*Arneis*
*Aurore*
*Bacchus*
*Baco blanc*
*Baco noir*
*Barbera*
*Beacon*
*Beclan*
*Bellandais*
*Beta*
*Black Corinth*
*Black Pearl*
*Blanc Du Bois*
*Blue Eye*
*Bonarda*
*Bountiful*
*Burdin 4672*
*Burdin 5201*
*Burdin 11042*
*Burgaw*
*Burger*
*Cabernet franc*
*Cabernet Pfeffer*
*Cabernet Sauvignon*
*Calzin*
*Campbell Early* (*Island Belle*)
*Canada Muscat*
*Captivator*
*Carignane*
*Carlos*
*Carmenère*
*Carmine*
*Carnelian*
*Cascade*
*Castel 19–637*
*Catawba*
*Cayuga White*
*Centurion*
*Chambourcin*
*Chancellor*
*Charbono*
*Chardonel*
*Chardonnay*
*Chasselas doré*
*Chelois*
*Chenin blanc*
*Chief*
*Chowan*
*Cinsaut* (*Black Malvoisie*)
*Clairette blanche*
*Clinton*
*Colombard* (*French Colombard*)
*Colobel*
*Cortese*
*Corvina*

*Concord*
*Conquistador*
*Couderc noir*
*Counoise*
*Cowart*
*Creek*
*Cynthiana* (*Norton*)
*Dearing*
*De Chaunac*
*Delaware*
*Diamond*
*Dixie*
*Dolcetto*
*Doreen*
*Dornfelder*
*Dulcet*
*Durif*
*Dutchess*
*Early Burgundy*
*Early Muscat*
*Edelweiss*
*Eden*
*Ehrenfelser*
*Ellen Scott*
*Elvira*
*Emerald Riesling*
*Feher Szagos*
*Fernão Pires*
*Fern Munson*
*Fiano*
*Flame Tokay*
*Flora*
*Florental*
*Folle blanche*
*Fredonia*
*Freisa*
*Fry*
*Furmint*
*Gamay noir*
*Garronet*
*Gewürztraminer*
*Gladwin 113*
*Glennel*
*Gold*
*Golden Isles*
*Golden Muscat*
*Grand Noir*
*Green Hungarian*
*Grenache*
*Grignolino*
*Grillo*
*Gros Verdot*
*Helena*
*Herbemont*
*Higgins*
*Horizon*
*Hunt*
*Iona*
*Isabella*
*Ives*
*James*
*Jewell*
*Joannes Seyve 12–428*
*Joannes Seyve 23–416*
*Kerner*
*Kay Gray*
*Kleinberger*
*LaCrosse*
*Lake Emerald*
*Lambrusco*
*Landal*
*Landot noir*
*Lenoir*
*Léon Millot*
*Limberger (Lemberger)*
*Madeline Angevine*
*Magnolia*
*Magoon*
*Malbec*
*Malvasia bianca*
*Maréchal Foch*
*Marsanne*
*Melody*
*Melon de Bourgogne (Melon)*
*Merlot*
*Meunier (Pinot Meunier)*
*Mish*
*Mission*
*Missouri Riesling*
*Mondeuse (Refosco)*
*Montefiore*
*Moore Early*
*Morio-Muskat*
*Mourvèdre (Mataro)*
*Müller-Thurgau*
*Münch*
*Muscadelle*
*Muscat blanc (Muscat Canelli)*
*Muscat du Moulin*
*Muscat Hamburg (Black Muscat)*
*Muscat of Alexandria*
*Muscat Ottonel*
*Naples*
*Nebbiolo*
*Négrette*
*New York Muscat*
*Niagara*
*Noah*
*Noble*
*Norton (Cynthiana)*
*Ontario*
*Orange Muscat*
*Palomino*
*Pamlico*
*Pedro Ximenes*
*Petit Verdot*
*Petite Sirah*
*Peverella*
*Pinotage*
*Pinot blanc*
*Pinot gris (Pinot Grigio)*
*Pinot noir*
*Precoce de Malingre*
*Pride*
*Primitivo*
*Rayon d'Or*
*Ravat 34*
*Ravat 51 (Vignoles)*
*Ravat noir*
*Redgate*
*Regale*
*Riesling (White Riesling)*
*Rkatziteli (Rkatsiteli)*
*Roanoke*

*Rosette*
*Roucaneuf*
*Rougeon*
*Roussanne*
*Royalty*
*Rubired*
*Ruby Cabernet*
*St. Croix*
*St. Laurent*
*Saint Macaire*
*Salem*
*Salvador*
*Sangiovese*
*Sauvignon blanc (Fumé blanc)*
*Scarlet*
*Scheurebe*
*Sémillon*
*Sereksiya*
*Seyval* (*Seyval blanc*)
*Siegerrebe*
*Siegfried*
*Southland*
*Souzão*
*Steuben*
*Stover*
*Sugargate*
*Sultanina* (*Thomspon Seedless*)
*Summit*
*Suwannee*
*Sylvaner*
*Symphony*
*Syrah* (*Shiraz*)
*Swenson Red*
*Tannat*
*Tarheel*
*Taylor*
*Tempranillo* (*Valdepeñas*)
*Teroldego*
*Thomas*
*Thompson Seedless* (*Sultanina*)
*Tinta Madeira*
*Tinto cão*
*Tocai Friulano*
*Topsail*
*Touriga*
*Traminer*
*Traminette*
*Trousseau*
*Trousseau gris*
*Ugni blanc* (*Trebbiano*)
*Valdiguié*
*Valerien*
*Van Buren*
*Veeblanc*
*Veltliner*
*Ventura*
*Verdelet*
*Verdelho*
*Vidal blanc*
*Villard blanc*
*Villard noir*
*Vincent*
*Viognier*
*Vivant*
*Welsch Rizling*
*Watergate*
*Welder*
*Yuga*
*Zinfandel*

[T.D. ATF–370, 61 FR 539, Jan. 8, 1996, as amended by T.D. ATF–417, 64 FR 49388, Sept. 13, 1999; T.D. ATF–433, 65 FR 78096, Dec. 14, 2000; T.D. ATF–466, 66 FR 49280, Sept. 27, 2001; T.D. ATF–475, 67 FR 11918, Mar. 18, 2002; T.D. ATF–481, 67 FR 56481, Sept. 4, 2002]

### § 4.92 Alternative names permitted for temporary use.

The following alternative names shown in the left column may be used as the type designation for American wine in lieu of the prime name of the grape variety shown in the right column. Alternative names listed in the left column may only be used for wine bottled prior to the date indicated.

(a) *Wines bottled prior to January 1, 1997.*

*Alternative Name/Prime Name*

*Baco 1—Baco noir*
*Baco 22A—Baco blanc*
*Bastardo—Trousseau*
*Black Spanish—Lenoir*
*Burdin 7705—Florental*
*Cayuga—Cayuga White*
*Chancellor noir—Chancellor*
*Chasselas—Chasselas doré*
*Chevrier—Sémillon*
*Chelois noir—Chelois*
*Couderc 71–20—Couderc noir*
*Couderc 299–35—Muscat du Moulin*
*Foch—Maréchal Foch*
*Franken Riesling—Sylvaner*
*Gutedel—Chasselas doré*
*Ives Seedling—Ives*
*Jacquez—Lenoir*
*Joannes Seyve 26–205—Chambourcin*
*Landot 244—Landal*
*Landot 4511—Landot noir*
*Millot—Leon Millot*
*Moore's Diamond—Diamond*
*Norton Seedling—Norton*
*Pfeffer Cabernet—Cabernet Pfeffer*
*Pineau de la Loire—Chenin blanc*
*Pinot Chardonnay—Chardonnay*
*Ravat 262—Ravat noir*
*Ruländer—Pinot gris*
*Seibel 128—Salvador*
*Seibel 1000—Rosette*
*Seibel 4986—Rayon d'Or*
*Seibel 5279—Aurore*
*Seibel 5898—Rougeon*
*Seibel 7053—Chancellor*
*Seibel 8357—Colobel*
*Seibel 9110—Verdelet*
*Seibel 9549—De Chaunac*
*Seibel 10878—Chelois*
*Seibel 13053—Cascade*
*Seibel 14596—Bellandais*
*Seyve-Villard 5–276—Seyval*

*Seyve-Villard 12–309—Roucaneuf*
*Seyve-Villard 12–375—Villard blanc*
*Seyve-Villard 18–283—Garronet*
*Seyve-Villard 18–315—Villard noir*
*Seyve-Villard 23–410—Valerien*
*Sweetwater—Chasselas doré*
*Verdelet blanc—Verdelet*
*Vidal 256—Vidal blanc*
*Virginia Seedling—Norton*
*Wälschriesling—Welsch Rizling*
*Welschriesling—Welsch Rizling*

(b) *Wines bottled prior to January 1, 1999.*

*Alternative Name/Prime Name*

*Cabernet—Cabernet Sauvignon*
*Grey Riesling—Trousseau gris*
*Muscat Frontignan—Muscat blanc*
*Muscat Pantelleria—Muscat of Alexandria*
*Napa Gamay—Valdiquié*
*Pinot Saint George—Négrette*
*Sauvignon vert—Muscadelle*

(c) *Wines bottled prior to January 1, 2006.*

*Alternative Name/Prime Name*

*Johannisberg Riesling—Riesling*

[T.D. ATF–370, 61 FR 539, Jan. 8, 1996, as amended by T.D. ATF–417, 64 FR 49388, Sept. 13, 1999]

### § 4.93 Approval of grape variety names.

(a) Any interested person may petition the Administrator for the approval of a grape variety name. The petition may be in the form of a letter and should provide evidence of the following—

(1) Acceptance of the new grape variety,

(2) The validity of the name for identifying the grape variety,

(3) That the variety is used or will be used in winemaking, and

(4) That the variety is grown and used in the United States.

(b) For the approval of names of new grape varieties, documentation submitted with the petition to establish the items in paragraph (a) of this section may include—

(1) reference to the publication of the name of the variety in a scientific or professional journal of horticulture or a published report by a professional, scientific or winegrowers' organization,

(2) reference to a plant patent, if so patented, and

(3) information pertaining to the commercial potential of the variety, such as the acreage planted and its location or market studies.

(c) The Administrator will not approve a grape variety name if:

(1) The name has previously been used for a different grape variety;

(2) The name contains a term or name found to be misleading under § 4.39; or

(3) The name of a new grape variety contains the term ''Riesling.''

(d) For new grape varieties developed in the United States, the Administrator may determine if the use of names which contain words of geographical significance, place names, or foreign words are misleading under § 4.39. The Administrator will not approve the use of a grape variety name found to be misleading.

(e) The Administrator shall publish the list of approved grape variety names at least annually in the FEDERAL REGISTER.

(Approved by the Office of Management and Budget under Control Number 1512–0513)

## Subpart K—Use of the Term ''Organic''

### § 4.101 Use of the term "organic."

(a) Use of the term ''organic'' is optional and is treated as ''additional information on labels'' under § 4.38(f).

(b) Any use of the term ''organic'' on a wine label or in advertising of wine must comply with the United States Department of Agriculture's (USDA) National Organic Program rules (7 CFR part 205) as interpreted by the USDA.

(c) This section applies to labels and advertising that use the term ''organic'' on and after October 21, 2002.

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002]

# PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

## Subpart A—Scope

Sec.
5.1 General.
5.2 Related regulations.
5.3 Forms prescribed.
5.4 Delegations of the Administrator.

## Subpart B—Definitions

5.11 Meaning of terms.

### Subpart C—Standards of Identity for Distilled Spirits

5.21 Application of standards.
5.22 The standards of identity.
5.23 Alteration of class and type.

### Subpart Ca—Formulas

5.25 Application.
5.26 Formula requirements.
5.27 Formulas.
5.28 Adoption of predecessor's formulas.

### Subpart D—Labeling Requirements for Distilled Spirits

5.31 General.
5.32 Mandatory label information.
5.32a Voluntary disclosure of major food allergens.
5.32b Petitions for exemption from major food allergen labeling.
5.33 Additional requirements.
5.34 Brand names.
5.35 Class and type.
5.36 Name and address.
5.37 Alcohol content.
5.38 Net contents.
5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.
5.40 Statements of age and percentage.
5.41 Bottle cartons, booklets and leaflets.
5.42 Prohibited practices.

### Subpart E—Standards of Fill for Bottled Distilled Spirits

5.45 Application.
5.46 Standard liquor bottles.
5.47 Standards of fill (distilled spirits bottled before January 1, 1980).
5.47a Metric standards of fill (distilled spirits bottled after December 31, 1979).

### Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

5.51 Label approval and release.
5.52 Certificates of age and origin.
5.53 Certificate of nonstandard fill.

### Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

5.55 Certificates of label approval.
5.56 Certificates of age and origin.

### Subpart H—Advertising of Distilled Spirits

5.61 Application.
5.62 Definition.
5.63 Mandatory statements.
5.64 Legibility of mandatory information.
5.65 Prohibited practices.
5.66 Comparative advertising.

### Subpart I—Use of the Term "Organic."

5.71 Use of the term "organic."

AUTHORITY: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

SOURCE: T.D. 7020, 34 FR 20337, Dec. 30, 1969, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 5 appear by T.D. ATF–425, 65 FR 11891, Mar. 7, 2000.

## Subpart A—Scope

### § 5.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits. This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, but does not apply to distilled spirits for export.

### § 5.2 Related regulations.

The following regulations also relate to this part:

7 CFR Part 205—National Organic Program
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits
27 CFR Part 4—Labeling and Advertising of Wine
27 CFR Part 7—Labeling and Advertising of Malt Beverages
27 CFR Part 13—Labeling Proceedings
27 CFR Part 16—Alcoholic Beverage Health Warning Statement
27 CFR Part 19—Distilled Spirits Plants
27 CFR Part 26—Liquors and Articles From Puerto Rico and the Virgin Islands
27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer
27 CFR Part 28—Exportation of Alcohol
27 CFR Part 71—Rules of Practice in Permit Proceedings

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 5.3 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–92, 46 FR 46912, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987; T.D. 372, 61 FR 20723, May 8, 1996; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D. TTB–44, 71 FR 16921, Apr. 4, 2006]

### §5.4 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.5, Delegation of the Administrator's Authorities in 27 CFR Part 5, Labeling and Advertising of Distilled Spirits. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16921, Apr. 4, 2006]

## Subpart B—Definitions

### §5.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Advertisement.* See §5.62 for meaning of term as used in subpart H of this part.

*Age.* The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. ''Age'' for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.5, Delegation of the Administrator's Authorities in 27 CFR Part 5, Labeling and Advertising of Distilled Spirits.

*Bottle.* Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

*Brand label.* The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

*Distilled spirits.* Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use. The term ''distilled spirits'' shall not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

*Gallon.* U.S. gallon of 231 cubic inches of alcoholic beverage at 60 °F.

*In bulk.* In containers having a capacity in excess of 1 wine gallon (3.785 liters).

*Interstate or foreign commerce.* Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

*Liter or litre.* A metric unit of capacity equal to 1,000 cubic centimeters of distilled spirits at l5.56 °C (60 °F.), and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1,000 milliliters.

milliliter or milliliters may be abbreviated as ''ml''.

*Permittee.* Any person holding a basic permit under the Federal Alcohol Administration Act.

*Person.* Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term ''trade buyer'' means any person who is a wholesaler or retailer.

*Produced at.* As used in §§ 5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

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

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

*United States.* The several States and Territories and the District of Columbia; the term ''State'' includes a Territory and the District of Columbia; and the term ''Territory'' means the Commonwealth of Puerto Rico.

(26 U.S.C. 7805 (68 Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF–48, 43 FR 13533, Mar. 31, 1978; 44 FR 55839, Sept. 28, 1979, as amended by T.D. ATF–62, 44 FR 71620, Dec. 11, 1979; T.D. ATF–66, 45 FR 40547, June 13, 1980; T.D. ATF–94, 46 FR 55096, Nov. 6, 1981; T.D. ATF–198, 50 FR 8463, Mar. 1, 1985; T.D. ATF–230, 51 FR 21748, June 16, 1986; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D. TTB–44, 71 FR 16921, Apr. 4, 2006]

## Subpart C—Standards of Identity for Distilled Spirits

### § 5.21 Application of standards.

The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other nonindustrial purposes.

### § 5.22 The standards of identity.

Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows (see also § 5.35, class and type):

(a) *Class 1; neutral spirits or alcohol.* ''Neutral spirits'' or ''alcohol'' are distilled spirits produced from any material at or above 190° proof, and, if bottled, bottled at not less than 80° proof.

(1) ''Vodka'' is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color.

(2) ''Grain spirits'' are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

(b) *Class 2; whisky.* ''Whisky'' is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, stored in oak containers (except that corn whisky need not be so stored), and bottled at not less than 80° proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(1)(i) ''Bourbon whisky'', ''rye whisky'', ''wheat whisky'', ''malt whisky'', or ''rye malt whisky'' is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored at not more than 125° proof in charred new oak containers; and also includes mixtures of such whiskies of the same type.

(ii) ''Corn whisky'' is whisky produced at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, and if stored in oak containers stored at not more than 125° proof in used or uncharred new oak containers and not subjected in any manner to treatment with charred wood; and also includes mixtures of such whisky.

(iii) Whiskies conforming to the standards prescribed in paragraphs (b)(1)(i) and (ii) of this section, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as ''straight''; for example, ''straight bourbon whisky'', ''straight

corn whisky'', and whisky conforming to the standards prescribed in paragraph (b)(1)(i) of this section, except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as ''straight whisky''. No other whiskies may be designated ''straight''. ''Straight whisky'' includes mixtures of straight whiskies of the same type produced in the same State.

(2) ''Whisky distilled from bourbon (rye, wheat, malt, or rye malt) mash'' is whisky produced in the United States at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored in used oak containers; and also includes mixtures of such whiskies of the same type. Whisky conforming to the standard of identity for corn whisky must be designated corn whisky.

(3) ''Light whisky'' is whisky produced in the United States at more than 160° proof, on or after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If ''light whisky'' is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated ''blended light whisky'' (light whisky—a blend).

(4) ''Blended whisky'' (whisky—a blend) is a mixture which contains straight whisky or a blend of straight whiskies at not less than 20 percent on a proof gallon basis, excluding alcohol derived from added harmless coloring, flavoring or blending materials, and, separately, or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, ''blended rye whisky'' (rye whisky—a blend).

(5)(i) ''A blend of straight whiskies'' (blended straight whiskies) is a mixture of straight whiskies which does not conform to the standard of identify for ''straight whisky.'' Products so designated may contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

(ii) ''A blend of straight whiskies'' (blended straight whiskies) consisting entirely of one of the types of straight whisky, and not conforming to the standard for straight whisky, shall be further designated by that specific type of straight whisky; for example, ''a blend of straight rye whiskies'' (blended straight rye whiskies). ''A blend of straight whiskies'' consisting entirely of one of the types of straight whisky shall include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State, provided that such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a).

(iii) The harmless coloring, flavoring, or blending materials allowed under this section shall not include neutral spirits or alcohol in their original state. Neutral spirits or alcohol may only appear in a ''blend of straight whiskies'' or in a ''blend of straight whiskies consisting entirely of one of the types of straight whisky'' as a vehicle for recognized flavoring of blending material.

(6) ''Spirit whisky'' is a mixture of neutral spirits and not less than 5 percent on a proof gallon basis of whisky, or straight whisky, or straight whisky and whisky, if the straight whisky component is less than 20 percent on a proof gallon basis.

(7) ''Scotch whisky'' is whisky which is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom: *Provided,* That if such product is a mixture of whiskies, such mixture is ''blended Scotch whisky'' (Scotch whisky—a blend).

(8) ''Irish whisky'' is whisky which is a distinctive product of Ireland, manufactured either in the Republic of Ireland or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption: *Provided,* That if such product is a mixture of whiskies, such mixture is ''blended Irish whisky'' (Irish whisky—a blend).

(9) ''Canadian whisky'' is whisky which is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada: *Provided,* That if such product is a mixture of whiskies, such mixture is ''blended Canadian whisky'' (Canadian whisky—a blend).

(c) *Class 3; gin.* ''Gin'' is a product obtained by original distillation from mash, or by redistillation of distilled spirits, or by mixing neutral spirits, with or over juniper berries and other aromatics, or with or over extracts derived from infusions, percolations, or maceration of such materials, and includes mixtures of gin and neutral spirits. It shall derive its main characteristic flavor from juniper berries and be bottled at not less than 80° proof. Gin produced exclusively by original distillation or by redistillation may be further designated as ''distilled''. ''Dry gin'' (London dry gin), ''Geneva gin'' (Hollands gin), and ''Old Tom gin'' (Tom gin) are types of gin known under such designations.

(d) *Class 4; brandy.* ''Brandy'' is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the standards in paragraphs (d) (1) through (8) of this section shall be designated as ''brandy'', and such designation shall be immediately followed by a truthful and adequate statement of composition.

(1) ''Fruit brandy'' is brandy distilled solely from the fermented juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation). Fruit brandy shall include mixtures of such brandy with not more than 30 percent (calculated on a proof gallon basis) of lees brandy. Fruit brandy, derived from grapes, shall be designated as ''grape brandy'' or ''brandy'', except that in the case of brandy (other than neutral brandy, pomace brandy, marc brandy or grappa brandy) distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been stored in oak containers for less than 2 years, the statement of class and type shall be immediately preceded, in the same size and kind of type, by the word ''immature''. Fruit brandy, other than grape brandy, derived from one variety of fruit, shall be designated by the word ''brandy'' qualified by the name of such fruit (for example, ''peach brandy''), except that ''apple brandy'' may be designated ''applejack''. Fruit brandy derived from more than one variety of fruit shall be designated as ''fruit brandy'' qualified by a truthful and adequate statement of composition.

(2) ''Cognac'', or ''Cognac (grape) brandy'', is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French Government.

(3) ''Dried fruit brandy'' is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as ''raisin brandy''. Other brandies shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word ''dried''.

(4) ''Lees brandy'' is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as ''lees brandy'', qualified by the name of the fruit from which such lees are derived.

(5) ''Pomace brandy'', or ''marc brandy'', is brandy distilled from the skin and pulp of sound, ripe grapes, citrus or other fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as ''pomace brandy'', or ''marc brandy'', qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as ''grappa'' or ''grappa brandy''.

(6) ''Residue brandy'' is brandy distilled wholly or in part from the fermented residue of fruit or wine, and shall be designated as ''residue brandy'' qualified by the name of the fruit from which derived. Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in paragraphs (d) (1), (3), (4), and (5) of this section may, regardless of such fact, be designated ''residue brandy'', but the use of such designation shall be conclusive, precluding any later change of designation.

(7) ''Neutral brandy'' is brandy produced at more than 170° proof and shall be designated in accordance with the standards in this paragraph, except that the designation shall be qualified by the word ''neutral''; for example, ''neutral citrus residue brandy''.

(8) ''Substandard brandy'' shall bear as a part of its designation the word ''substandard'', and shall include:

(i) Any brandy distilled from fermented juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20 °C.); measurements of volatile acidity shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material.

(e) *Class 5; blended applejack*. ''Blended applejack'' (applejack—a blend) is a mixture which contains at least 20 percent of apple brandy (applejack) on a proof gallon basis, stored in oak containers for not less than 2 years, and not more than 80 percent of neutral spirits on a proof gallon basis if such mixture at the time of bottling is not less than 80° proof.

(f) *Class 6; rum*. ''Rum'' is an alcoholic distillate from the fermented juice of sugar cane, sugar cane syrup, sugar cane molasses, or other sugar cane by-products, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma and characteristics generally attributed to rum, and bottled at not less than 80° proof; and also includes mixtures solely of such distillates.

(g) *Class 7; Tequila*. ''Tequila'' is an alcoholic distillate from a fermented mash derived principally from the Agave Tequilana Weber (''blue'' variety), with or without additional fermentable substances, distilled in such a manner that the distillate possesses the taste, aroma, and characteristics generally attributed to Tequila and bottled at not less than 80° proof, and also includes mixtures solely of such distillates. Tequila is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of Tequila for consumption in that country.

(h) *Class 8; cordials and liqueurs*. Cordials and liqueurs are products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolation, or maceration of such materials, and containing sugar, dextrose, or levulose, or a combination thereof, in an amount not less than 2½ percent by weight of the finished product.

(1) ''Sloe gin'' is a cordial or liqueur with the main characteristic flavor derived from sloe berries.

(2) ''Rye liqueur'', ''bourbon liqueur'' (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2½ percent limitation provided in §5.23 for coloring, flavoring, and blending materials.

(3) ''Rock and rye'', ''rock and bourbon'', ''rock and brandy'', ''rock and rum'' are liqueurs, bottled at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or

bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum, respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices, or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy, or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for harmless coloring, flavoring, and blending materials.

(4) ''Rum liqueur,'' ''gin liqueur,'' ''brandy liqueur,'' are liqueurs, bottled at not less than 60 proof, in which the distilled spirits used are entirely rum, gin, or brandy, respectively, and which possess, respectively, a predominant characteristic rum, gin, or brandy flavor derived from the distilled spirits used. In the case of brandy liqueur, the type of brandy must be stated in accordance with § 5.22(d), except that liqueurs made entirely with grape brandy may be designated simply as ''brandy liqueur.'' Wine, if used, must be within the 2½ percent limitation provided for in § 5.23 for harmless coloring, flavoring, and blending materials.

(5) The designation of a cordial or liqueur may include the word ''dry'' if the sugar, dextrose, or levulose, or a combination thereof, are less than 10 percent by weight of the finished product.

(6) Cordials and liqueurs shall not be designated as ''distilled'' or ''compound''.

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky.* ''Flavored brandy, ''flavored gin,'' ''flavored rum,'' ''flavored vodka,'' and ''flavored whisky,'' are brandy, gin, rum vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 60° proof. The name of the predominant flavor shall appear as a part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and precentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure, if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

(j) *Class 10; imitations.* Imitations shall bear, as a part of the designation thereof, the word ''imitation'' and shall include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits required under § 5.35 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added flavors considered to be artificial or imitation. In determining whether a flavor is artificial or imitation, recognition will be given to what is considered to be ''good commercial practice'' in the flavor manufacturing industry;

(3) Any class of type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate or imply, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essense, brandy essence, rum essence, or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(4) Any type of whisky to which beading oil has been added;

(5) Any rum to which neutral spirits or distilled spirits other than rum have been added;

(6) Any brandy made from distilling material to which has been added any amount of sugar other than the kind and amount of sugar expressly authorized in the production of standard wine; and

(7) Any brandy to which neutral spirits or distilled spirits other than brandy have been added, except that this provision shall not apply to any product conforming to the standard of identity for blended applejack.

(k) *Class 11; geographical designations.* (1) Geographical names for distinctive

types of distilled spirits (other than names found by the appropriate TTB officer under paragraph (k)(2) of this section to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word ''type'' or the word ''American'' or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, Swedish punch. Geographical names for distinctive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type.

(2) Only such geographical names for distilled spirits as the appropriate TTB officer finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples at London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Puerto Rico rum, Demerara rum.

(4) The words ''Scotch'', ''Scots'' ''Highland'', or ''Highlands'' and similar words connoting, indicating, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(l) *Class 12; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraphs (b) (1), (4), (5), and (6) of this section are distinctive products of the United States and if produced in a foreign country shall be designated by the applicable designation prescribed in such paragraphs, together with the words ''American type'' or the words ''produced (distilled, blended) in ___'', the blank to be filled in with the name of the foreign country: *Provided,* That the word ''bourbon'' shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country, an example is Habanero, shall not be given to the product of any other place or country unless the designation for such product includes the word ''type'' or an adjective such as ''American'', or the like, clearly indicating the true place of production. The provision for place of production shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that the appropriate TTB officer finds they have become generic. Examples are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–7, 38 FR 33471, Dec. 5, 1973; T.D. ATF–36, 41 FR 47426, Oct. 29, 1976; T.D. ATF–37, 41 FR 48121, Nov. 2, 1976; T.D. ATF–48, 44 FR 55839, Sept. 28, 1979; T.D. ATF–62, 44 FR 71620, Dec. 11, 1979; T.D. ATF–66, 45 FR 40547, June 13, 1980; T.D. ATF–94, 46 FR 55096, Nov. 6, 1981; T.D. ATF–259, 52 FR 41422, Oct. 28, 1987; T.D. ATF–324, 57 FR 29020, June 30, 1992]

### §5.23 Alteration of class and type.

(a) *Additions.* (1) The addition of any coloring, flavoring, or blending materials to any class and type of distilled spirits, except as otherwise provided in this section, alters the class and type thereof and the product shall be appropriately redesignated.

(2) There may be added to any class or type of distilled spirits, without changing the class or type thereof, (i)

such harmless coloring, flavoring, or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (ii) harmless coloring, flavoring, or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, infusion of oak chips when approved by the Administrator, or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring, or blending materials do not total more than 2½ percent by volume of the finished product.

(3) ''Harmless coloring, flavoring, and blending materials'' shall not include (i) any material which would render the product to which it is added an imitation, or (ii) any material, other than caramel, infusion of oak chips, and sugar, in the case of Cognac brandy; or (iii) any material whatsoever in the case of neutral spirits or straight whiskey, except that vodka may be treated with sugar in an amount not to exceed 2 grams per liter and a trace amount of citric acid.

(b) *Extractions.* The removal from any distilled spirits of any constituents to such an extent that the product does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits alters the class and type thereof, and the product shall be appropriately redesignated. In addition, in the case of straight whisky the removal of more than 15 percent of the fixed acids, or volatile acids, or esters, or soluble solids, or higher alcohols, or more than 25 percent of the soluble color, shall be deemed to alter the class or type thereof.

(c) *Exceptions.* (1) This section shall not be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky or as authorizing any product which is defined in § 5.22(j), Class 10, as an imitation to be otherwise designated.

(2) [Reserved]

[T.D. 7020, 34 FR 20337, Dec. 30. 1969, as amended by T.D. ATF–360, 59 FR 67222, 67223, Dec. 29, 1994; T.D. ATF–369, 61 FR 67327, Dec. 29, 1995]

## Subpart Ca—Formulas

SOURCE: T.D. ATF–62, 44 FR 71620, Dec. 11, 1979, unless otherwise noted.

### § 5.25 Application.

The requirements of this subpart shall apply to:

(a) Proprietors of distilled spirits plants qualified as processors under 27 CFR part 19;

(b) Persons in Puerto Rico who manufacture distilled spirits products for shipment to the United States. Formulas need only be filed for those products which will be shipped to the United States; and

(c) Persons who ship into the United States, Virgin Islands distilled spirits products.

### § 5.26 Formula requirements.

(a) *General.* An approved formula is required to blend, mix, purify, refine, compound, or treat spirits in a manner which results in a change of character, composition, class or type of the spirits. Form 5110.38 (27–B Supplemental) shall be filed in accordance with the instructions on the form and shall designate all ingredients and, if required, the process used. Any approved formula on Form 27–B Supplemental or Form 5110.38 shall remain in effect until revoked, superseded, or voluntarily surrendered. Any existing qualifying statements as to the rate of tax or the limited use of drawback flavors appearing on a Form 27–B Supplemental are obsolete.

(b) *Change in formula.* Any change in an approved formula shall require the filing of a new Form 5110.38. After a change in a formula is approved, the original formula shall be surrendered to the appropriate TTB officer.

[T.D. ATF–62, 44 FR 71620, as amended by T.D. ATF–425, 65 FR 11891, Mar. 7, 2000]

### § 5.27 Formulas.

Formulas are required for distilled spirits operations which change the

character, composition, class or type of spirits as follows:

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

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

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

(d) The mingling of spirits (including merchandise returned to bond) which differ in class or type of materials from which produced;

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

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

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

(h) The artificial carbonating of spirits;

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

(j) The production of gin by—

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

(2) Mixing gin with other spirits;

(k) The treatment of gin by—

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

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

(l) The production of vodka by—

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

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

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

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

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF–198, 50 FR 8463, Mar. 1, 1985, as amended by T.D. ATF–259, 52 FR 41423, Oct. 28, 1987]

### §5.28 Adoption of predecessor's formulas.

The adoption by a successor of approved Forms 5110.38 (27–B Supplemental) shall be in the form of an application filed with the appropriate TTB officer. The application shall list the formulas for adoption by:

(a) Formula number,
(b) Name of product, and
(c) Date of approval.

The application shall clearly show that the predecessor has authorized the use of his previously approved formulas by the successor.

## Subpart D—Labeling Requirements for Distilled Spirits

### § 5.31 General.

(a) *Application.* No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any distilled spirits in bottles, unless such bottles are marked, branded, labeled, or packaged, in conformity with §§ 5.31 through 5.42.

(b) *Alteration of labels.* It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except:

(1) As authorized by Federal law;

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

(3) That there may be added to the bottle, after removal from customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF–62, 44 FR 71621, Dec. 11, 1979; T.D. ATF–198, 50 FR 8464, Mar. 1, 1985]

### § 5.32 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name.

(2) Class and type, in accordance with § 5.35.

(3) Alcoholic content, in accordance with § 5.37.

(4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in § 5.47, net contents in accordance with § 5.38(b) or § 5.38a(b)(2).

(b) On the brand label or on a back label:

(1) Name and address, in accordance with § 5.36.

(2) In the case of imported spirits, the country of origin, in accordance with § 5.36.

(3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in § 5.47 or § 5.47a, net contents in accordance with § 5.38(a), § 5.38a(a), or § 5.38a(b)(1).

(4) Coloring or flavoring, in accordance with § 5.39.

(5) A statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(6) [Reserved]

(7) *Declaration of sulfites.* There shall be stated, the statement ''Contains sulfites'' or ''Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The sulfite declaration may appear on a strip label or neck label in lieu of appearing on the front or back label. The provisions of this paragraph shall apply to:

(i) Any certificate of label approval issued on or after January 9, 1987;

(ii) Any distilled spirits bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(iii) Any distilled spirits removed on or after January 9, 1988.

(8) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin, the name of the commodity only, in accordance with § 5.39.

(9) A statement of age or age and percentage, when required, in accordance with §5.40.

(10) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with §5.36.

(c) In the case of a container which has been excepted under the provisions of §5.46(d), the information required to appear on the ''brand label,'' as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

(Paragraph (b)(7) approved by the Office of Management and Budget under Control No. 1512–0469)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–25, 41 FR 10220, Mar. 10, 1976; 41 FR 11022, Mar. 16, 1976; T.D. ATF–94, 46 FR 55096, Nov. 6, 1981; T.D. ATF–150, 48 FR 45556, Oct. 6, 1983; 48 FR 46518, Oct. 13, 1983; T.D. ATF–220, 50 FR 51852, Dec. 20, 1985; T.D. ATF–236, 51 FR 34710, Sept. 30, 1986; T.D. ATF–282, 54 FR 7162, Feb. 16, 1989; T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–344, 58 FR 40354, July 28, 1993; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D TTB–12, 69 FR 33574, June 16, 2004]

### §5.32a Voluntary disclosure of major food allergens.

(a) *Definitions.* For purposes of this section the following terms have the meanings indicated.

(1) *Major food allergen. Major food allergen* means any of the following:

(i) Milk, egg, fish (for example, bass, flounder, or cod), Crustacean shellfish (for example, crab, lobster, or shrimp), tree nuts (for example, almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food specified in paragraph (a)(1)(i) of this section, except:

(A) Any highly refined oil derived from a food specified in paragraph (a)(1)(i) of this section and any ingredient derived from such highly refined oil; or

(B) A food ingredient that is exempt from major food allergen labeling requirements pursuant to a petition for exemption approved by the Food and Drug Administration (FDA) under 21 U.S.C. 343(w)(6) or pursuant to a notice submitted to FDA under 21 U.S.C. 343(w)(7), provided that the food ingredient meets the terms or conditions, if any, specified for that exemption.

(2) *Name of the food source from which each major food allergen is derived. Name of the food source from which each major food allergen is derived* means the name of the food as listed in paragraph (a)(1)(i) of this section, except that:

(i) In the case of a tree nut, it means the name of the specific type of nut (for example, almonds, pecans, or walnuts);

(ii) In the case of Crustacean shellfish, it means the name of the species of Crustacean shellfish (for example, crab, lobster, or shrimp); and

(iii) The names ''egg'' and ''peanuts'', as well as the names of the different types of tree nuts, may be expressed in either the singular or plural form, and the term ''soy'', soybean'', or ''soya'' may be used instead of ''soybeans''.

(b) *Voluntary labeling standards.* Major food allergens (defined in paragraph (a)(1) of this section) used in the production of a distilled spirit product may, on a voluntary basis, be declared on any label affixed to the container. However, if any one major food allergen is voluntarily declared, all major food allergens used in production of the distilled spirit product, including major food allergens used as fining or processing agents, must be declared, except when covered by a petition for exemption approved by the appropriate TTB officer under §5.32b. The major food allergens declaration must consist of the word ''Contains'' followed by a colon and the name of the food source from which each major food allergen is derived (for example, ''Contains: egg'').

(c) *Cross reference.* For mandatory labeling requirements applicable to distilled spirits products containing FD&C Yellow No. 5 and sulfites, see §§5.32(b)(5) and (7).

[T.D. TTB–53, 71 FR 42268, July 26, 2006]

### §5.32b Petitions for exemption from major food allergen labeling.

(a) *Submission of petition.* Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of §5.32a. The burden is on

the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(2) Does not contain allergenic protein derived from one of the foods identified in §5.32a(a)(1)(i), even though a major food allergen was used in production.

(b) *Decision on petition.* TTB will approve or deny a petition for exemption submitted under paragraph (a) of this section in writing within 180 days of receipt of the petition. If TTB does not provide a written response to the petitioner within that 180-day period, the petition will be deemed denied, unless an extension of time for decision is mutually agreed upon by the appropriate TTB officer and the petitioner. TTB may confer with the Food and Drug Administration (FDA) on petitions for exemption, as appropriate and as FDA resources permit. TTB may require the submission of product samples and other additional information in support of a petition; however, unless required by TTB, the submission of samples or additional information by the petitioner after submission of the petition will be treated as the withdrawal of the initial petition and the submission of a new petition. An approval or denial under this section will constitute a final agency action.

(c) *Resubmission of a petition.* After a petition for exemption is denied under this section, the petitioner may resubmit the petition along with supporting materials for reconsideration at any time. TTB will treat this submission as a new petition for purposes of the time frames for decision set forth in paragraph (b) of this section.

(d) *Availability of information*—(1) *General.* TTB will promptly post to its public Web site, *http://www.ttb.gov,* all petitions received under this section as well as TTB's responses to those petitions. Any information submitted in support of the petition that is not posted to the TTB Web site will be available to the public pursuant to 5 U.S.C. 552, except where a request for confidential treatment is granted under paragraph (d)(2) of this section.

(2) *Requests for confidential treatment of business information.* A person who provides trade secrets or other commercial or financial information in connection with a petition for exemption under this section may request that TTB give confidential treatment to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

[T.D. TTB–53, 71 FR 42268, July 26, 2006]

### § 5.33 Additional requirements.

(a) *Contrasting background.* Labels shall be so designed that the statements required by this subpart are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) *Location of statements and size of type.* (1) Statements required by this subpart, except brand names, shall appear generally parallel to the base on which the bottle rests as it is designed

to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by this subpart, except brand names and the declaration of sulfites in §5.32(b)(7), shall be separate and apart from any other descriptive or explanatory matters.

(3) If not separate and apart from other descriptive or explanatory matter printed on the label, the statement declaring the presence of sulfites shall be of a size substantially more conspicuous than surrounding nonmandatory labeling information.

(4) Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(5) Statements required by this subpart, except brand names, shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity, such script, type, or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(6) When net contents are stated either in metric measures or in both metric and U.S. fluid measures, statements required by the subpart, except brand names, shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity such script, type, or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(c) *English language.* The requirements of this subpart shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word ''imitation'' are also stated in the English language.

(d) *Location of label.* Labels shall not obscure government stamps or be obscured thereby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other U.S. Treasury Department regulations.

(e) *Labels firmly affixed.* Labels which are not an integral part of the bottle shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by this subpart if the information does not conflict with, or in any manner qualify, statements required by this part.

(g) *Contents of bottles.* A complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed shall be submitted, on request, to the appropriate TTB officer.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–66, 45 FR 40548, June 13, 1980; T.D. ATF–94, 46 FR 55096, Nov. 6, 1981; T.D. ATF–236, 51 FR 34710, Sept. 30, 1986; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000]

### §5.34 Brand names.

(a) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate TTB officer finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) *Trade name of foreign origin.* Paragraph (a) of this section does not prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the U.S. Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided,* That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

**§ 5.35 Class and type.**

(a) *Designation of product.* The class and type of distilled spirits shall be stated in conformity with § 5.22 if defined therein. In all other instances the product shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in paragraph (b)(2) of this section) followed by a truthful and adequate statement of composition. The word ''cordial'' or ''liqueur'' need not be stated in the case of cordials and liqueurs unless the appropriate TTB officer finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) *Products designed in accordance with trade and consumer understanding.* In the case of products designated in accordance with trade and consumer understanding:

(1) A statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

(2) No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) *Origin of whiskies in mixtures.* In the case of any of the types of whisky defined in § 5.22(b), Class 2, which contains any whisky or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the brand label the percentage of such whisky and the country or origin thereof. In the case of mixtures of whisky, not conforming to any type designation in § 5.22(b), Class 2, the components of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation ''whisky'' a truthful and adequate statement of the composition of the product.

(d) *Whisky manufactured in Scotland, Ireland, or Canada.* All whisky manufactured in Scotland, Ireland, or Canada, shall be deemed to be Scotch, Irish, or Canadian whisky, and shall be so designated, in conformity with § 5.22(b) (7), (8), and (9), unless the application of such designation to the particular product will result in consumer deception, or unless such a product is not entitled to such designation under the laws of the country in which manufactured.

(e) *Cordials and liqueurs.* The alcoholic components of cordails and liqueurs may, but need not, be stated on labels.

**§ 5.36 Name and address.**

(a) *''Bottled by''.* (1) On labels of domestic distilled spirits there shall be stated the phrase ''bottled by'', ''packed by'', or ''filled by'', immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants.

(2) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase ''bottled by'', ''packed by'', or ''filled by'', followed by the bottler's name (or trade name) and address, the phrase ''distilled by'', followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits labeled as bottled in bond) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

(3) Where ''straight whiskies'' of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as ''straight whisky,'' such ''straight whisky'' shall be labeled

in accordance with the requirements of paragraph (a)(1) of this section. Where such ''straight whisky'' is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of paragraph (a)(1) of this section, the phraise ''distilled by,'' followed by the names (or trade names) of the different distillers who distilled a portion of the ''straight whisky,'' the addresses of the distilleries where the ''straight whisky'' was distilled, and the percentage of ''straight whisky'' distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where ''straight whisky'' is made up of a mixture of ''straight whiskies'' of the same type from two or more different distilleries of the same proprietor located within the same State, and where the ''straight whisky'' is bottled by or for the proprietor thereof, such ''straight whisky'' may be labeled, in lieu of the requirements of paragraph (a)(1) of the this section, with the phrase ''distilled by'' followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the ''straight whisky.''

(4) Where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase ''bottled by'', ''packed by'', or ''filled by'', followed by the bottler's name (or trade name) and address, the phrases ''blended by'', ''made by'', ''prepared by'', ''manufactured by'', or ''produced by'' (whichever may be appropriate to the act of rectification involved) followed by the name (or trade name), and the address (or addresses) of the rectifier.

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

(6) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or rectification operation occurred, if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle.

(b) *''Imported by''*. (1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words ''imported by'', ''imported exclusively by'', or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation there shall be stated:

(i) The name of the bottler and place where bottled, immediately preceded by the words ''bottled by'', ''packed by'', or ''filled by''; or

(ii) The name of the bottler and place where bottled, immediately preceded by the words ''bottled by'', ''packed by'', or ''filled by'' and in conjunction therewith the name and address of the person responsible for the importation, in the manner prescribed in paragraph (b)(1) of this section; or

(iii) The name and principal place of business in the United States of the person responsible for the importation, if the spirits are bottled for such person, immediately preceded by the phrase ''imported by and bottled (packed), (filled) in the United States for'' (or a similar appropriate phrase); or,

(iv) In the case of imported distilled spirits bottled after importation by the person responsible for the importation, the words ''imported and bottled (packed), (filled) by'', ''imported and bottled (packed), (filled) exclusively by'', or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person's principal place of business.

(c) *Post office address*. The ''place'' stated shall be the post office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, firm or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage

business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address.

(d) *State of distillation.* Except in the case of ''light whisky'', ''blended light whisky'', ''blended whisky'', ''a blend of straight whiskies'', or ''spirit whisky'', the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The appropriate TTB officer may, however, require the State of distillation to be shown on the label or he may permit such other labeling as may be necessary to negate any misleading or deceptive impression which might be created as to the actual State of distillation. In the case of ''light whisky'', as defined in § 5.22(b)(3), the State of distillation shall not appear in any manner on any label, when the appropriate TTB officer finds such State is associated by consumers with an American type whisky, except as a part of a name and address as set forth in paragraph (a) of this section.

(e) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form ''Product of _____'', the blank to be filled in with the name of the country of origin.

(f) *Trade names.* The trade name of any permittee appearing on any label must be identical to the trade name listed on the permittee's basic permit.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF–62, 44 FR 71621, Dec. 11, 1979; T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; T.D. ATF–259, 52 FR 41423, Oct. 28, 1987; T.D. ATF–260, 52 FR 42101, Nov. 3, 1987; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000]

## § 5.37 Alcohol content.

(a) *Statements*—(1) *Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as ''Rock and Rye. or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: ''Bottled at _____ percent-alcohol-by-volume.''

(2) *Optional statement.* In addition, the label may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

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

(1) Not to exceed 0.25 percent alcohol by volume for spirits containing solids in excess of 600 mg per 100 ml; or

(2) Not to exceed 0.25 percent alcohol by volume for any spirits product bottled in 50 or 100 ml size bottles; or

(3) Not to exceed 0.15 percent alcohol by volume for all other spirits.

(Approved by the Office of Management and Budget under Control Number 1512–0482)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5301(a)); 49 Stat. 917, as amended (27 U.S.C. 205(e))

[T.D. ATF–237, 51 FR 36394, Oct. 10, 1986, as amended by T.D. ATF–288, 54 FR 47769, Nov. 17, 1989]

## § 5.38 Net contents.

(a) *Bottles conforming to metric standards of fill.* The net contents of distilled spirits shall be stated in the same manner and form as set forth in the standards of fill in § 5.47a.

(b) *Bottles not conforming to the metric standards of fill.* The net contents for distilled spirits bottled before January 1, 1980, in bottles not conforming to the metric standards of fill, shall be stated in the same manner and form as set forth in § 5.47(a), except for cordials and liqueurs, cocktails, highballs, bitters and specialties, as specified by the Administrator. The net contents for these specialty products shall be stated in U.S. measure (i.e., gallons, quarts, pints, fluid ounces).

(c) *Net contents marked in bottles.* The net contents need not be marked on any lable if they are legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the appropriate TTB officer on the side, front, or back of the container in an unobscured location. containers of 200 ml or greater capacity shall bear letters and figures of not less than one-quarter inch height.

(d) *Qualifying statements.* Words or phrases qualifying statements of net contents are prohibited.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

[T.D. ATF–146, 48 FR 43321, Sept. 23, 1983, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### §5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) *Neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: ''_____% neutral spirits distilled from _____ (insert grain, cane products, or fruit as appropriate)''; or ''_____% neutral spirits (vodka) distilled from _____ (insert grain, cane products, or fruit, as appropriate)''; or ''_____% grain (cane products), (fruit) neutral spirits'', or ''_____% grain spirits.''

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin have been distilled. The statement of the name of the commodity shall be made in substantially the following form: ''Distilled from grain'', or ''Distilled from cane products'', or ''Distilled from fruit''.

(b) *Coloring materials.* The words ''artifically colored'' shall be stated on the label of any distilled spirits containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words ''artificially colored'' a truthful and adequate statement of the source of the color;

(2) If no coloring material other than those certified as suitable for use in foods by the Food and Drug Administration has been added, there may be stated in lieu of the words ''artificially colored,'' the words ''certified color added''; and

(3) If no coloring material other than caramel has been added, there may be stated in lieu of the words ''artificially colored,'' the words ''colored with caramel,'' or a substantially similar statement, but no such statement is required for the use of caramel in brandy, rum, or tequila, or in any type of whisky other than straight whisky.

(c) *Treatment with wood.* The words ''colored and flavored with wood _____ (insert chips, slabs, etc., as appropriate)'' shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation or storage, other than through contact with the oak container. *Provided,* that the above statement shall not apply to brandy treated with an infusion of oak chip in accordance with §5.23(a).

[T.D. 720, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–292, 55 FR 1065, Jan. 11, 1990]

### §5.40 Statements of age and percentage.

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

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, the age of the youngest whisky. The age statement shall read substantially as follows: ''_____ years old.''

(2) In the case of whisky, containing neutral spirits, if any of the straight whisky and/or other whisky is less than 4 years old, the percentage by volume of straight whisky and/or other whisky, and the age of the straight whisky (the youngest if two or more) and the age of such other whisky (the youngest if two or more). If all the straight whisky and/or other whisky is 4 years or more old, the age and percentage statement for such whiskies is optional. The age and percentage statement for straight whiskies and/or other whisky, whether required or optional, shall be stated in immediate conjunction with the neutral spirits statement required by § 5.39, and shall read substantially as follows:

(i) If only one straight whisky and no other whisky is contained in the blend: ''___ percent straight whisky ___ years old.''

(ii) If more than one straight whisky and no other whisky is contained in the blend: ''___ percent straight whiskies ___ years or more old.'' The age blank shall be filled in with the age of the youngest straight whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies contained in the blend: ''___ percent straight whisky ___ years old, ___ percent straight whisky ___ years old, and ___ percent straight whisky ___ years old.''

(iii) If only one straight whisky and one other whisky is contained in the blend: ''___ percent straight whisky ___ years old, ___ percent whisky ___ years old.''

(iv) If more than one straight whisky and more than one other whisky is contained in the blend: ''___ percent straight whiskies ___ years or more old, ___ percent whiskies ___ years or more old.'' The age blanks shall be filled in with the ages of the youngest straight whisky and the youngest other whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies and other whiskies contained in the blend: ''___ percent straight whisky ___ years old, ___ percent straight whisky ___ years old, ___ percent whisky ___ years old, and ___ percent whisky ___ years old.''

(3) In the case of imported whiskies described in § 5.22(l), Class 12, the labels shall state the ages and percentages in the same manner and form as is required for the same type of whisky produced in the United States.

(4) Notwithstanding the foregoing provisions of this paragraph, in the case of whisky produced in the United States and stored in reused oak containers, except for corn whisky, and for light whisky produced on or after January 26, 1968, there shall be stated in lieu of the words ''___ years old'' the period of storage in reused oak containers as follows: ''___ stored ___ years in reused cooperage.''

(5) Optional age statements shall appear in the same form as required age statements.

(b) *Statements of age for rum, brandy, and Tequila.* Age may, but need not, be stated on labels of rums, brandies, and Tequila, except that an appropriate statement with respect to age shall appear on the brand label in case of brandy (other than immature brandies and fruit brandies which are not customarily stored in oak containers) not stored in oak containers for a period of at least 2 years. If age is stated, it shall be substantially as follows: ''___ years old''; the blank to be filled in with the age of the youngest distilled spirits in the product.

(c) *Statement of storage for grain spirits.* In case of grain spirits, the period of storage in oak containers may be stated in immediate conjunction with the required percentage statement; for example, ''___% grain spirits stored ___ years in oak containers.''

(d) *Other distilled spirits.* Age, maturity, or similar statements or representations as to neutral spirits (except for grain spirits as stated in paragraph (c) of this section), gin, liqueurs, cordials, cocktails, highballs, bitters, flavored brandy, flavored gin, flavored rum, flavored vodka, flavored whisky, and specialties are misleading and are prohibited from being stated on any label.

(e) *Miscellaneous age representations.* (1) Age may be understated but shall not be overstated.

(2) If any age, maturity, or similar representation is made relative to any distilled spirits (such representations for products enumerated in paragraph (d) of this section are prohibited), the age shall also be stated on all labels where such representation appears, and in a manner substantially as conspicuous as such representation: *Provided.* That the use of the word ''old'' or other word denoting age, as part of the brand name, shall not be deemed to be an age representation: *And provided further,* That the labels of whiskies and brandies (except immature brandies) not required to bear a statement of age, and rum and Tequila aged for not less than 4 years, may contain general inconspicuous age, maturity or similar representations without the label bearing an age statement.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF–62, 44 FR 71621, Dec. 11, 1979; T.D. ATF–198, 50 FR 8464, Mar. 1, 1985]

## §5.41 Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§5.31 through 5.42 on labels.

(b) *Sealed opaque cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than shipping containers), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, e.g. by ''Brand'' or ''Product of U.S.A.'', must also display such modification.

(3) Specialty products for which a truthful and adequate statement of composition is required must display such statement.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–36, 41 FR 47426, Oct. 29, 1976]

## §5.42 Prohibited practices.

(a) *Statements on labels.* Bottles containing distilled spirits, or any labels on such bottles, or any individual covering, carton, or other container of such bottles used for sale at retail, or any written, printed, graphic, or other matter accompanying such bottles to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely to falsely lead the consumer to believe

that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided,* That this paragraph shall not apply to the use of the name of any person engaged in business as a distiller, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Miscellaneous.* (1) Labels shall not be of such design as to resemble or simulate a stamp of the U.S. Government or any State or foreign government. Labels, other than stamps authorized or required by this or any other government, shall not state or indicate that the distilled spirits are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, Federal, or foreign authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, municipal, or foreign law or regulations. The statements authorized by this part to appear on labels for domestic distilled spirits are ''Distilled (produced, barreled, warehoused, blended, or bottled, or any combination thereof, as the case may be) under United States (U.S.) Government supervision'', or in the case of distilled spirits labeled as bottled in bond, ''Bottled in bond under United States (U.S.) Government supervision''. If the municipal, State, or Federal Government permit number is stated on a label, it shall not be accompanied by any additional statement relating thereto.

(2) If imported distilled spirits are covered by a certificate of origin or of age issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statement relating thereto. The reference to such certificate or certification shall, in the case of Cognac, be substantially in the following form: ''This product accompanied at the time of importation by an 'Acquit Regional Jaune d'Or' issued by the French Government, indicating that this grape brandy was distilled in the Cognac Region of France''; and in the case of other distilled spirits, substantially in the following form: ''This product accompanied at time of importation by a certificate issued by the ____ government (name of government) indicating that the product is ____ (class and type as required to be stated on the label), and (if label claims age) that none of the distilled spirits are of an age less than stated on this label.''

(3) The words ''bond'', ''bonded'', ''bottled in bond'', ''aged in bond'', or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless the distilled spirits are:

(i) Composed of the same kind of spirits produced from the same class of materials;

(ii) Produced in the same distilling season by the same distiller at the same distillery;

(iii) Stored for at least four years in wooden containers wherein the spirits have been in contact with the wood surface except for gin and vodka which must be stored for at least four years in wooden containers coated or lined with paraffin or other substance which will preclude contact of the spirits with the wood surface;

(iv) Unaltered from their original condition or character by the addition or subtraction of any substance other than by filtration, chill proofing, or other physical treatments (which do not involve the addition of any substance which will remain incorporated in the finished product or result in a change in class or type);

(v) Reduced in proof by the addition of pure water only to 100 degrees of proof; and

(vi) Bottles at 100 degrees of proof.

In addition to the requirements of § 5.36(a) (1) or (2), the label shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, and the plant (or registered distillery)

number in which produced; and the plant number in which bottled. The label may also bear the name or trade name of the bottler.

(4) The words ''bond'', ''bonded'', ''bottled in bond'', ''aged in bond'', or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless the distilled spirits meet in all respects the requirements applicable to distilled spirits bottled for domestic consumption, so labeled, and unless the laws and regulations of the country in which such distilled spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as ''bonded'', ''bottled in bond'', or ''aged in bond'' pursuant to the provisions of this paragraph shall bear in direct conjunction with such statement and in script, type, or printing substantially as conspicuous as that used on such statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

(5) The word ''pure'' shall not be stated upon labels unless:

(i) It refers to a particular ingredient used in the production of the distilled spirits, and is a truthful representation about that ingredient; or

(ii) It is part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled; or

(iii) It is part of the bona fide name of the permittee who bottled the distilled spirits.

(6) Distilled spirits shall not be labeled as ''double distilled'' or ''triple distilled'' or any similar term unless it is a truthful statement of fact; except that ''double distilled'' or ''triple distilled'' shall not be permitted on labels of distilled spirits produced by the redistillation method when a second or third distillation step is a necessary distillation process for the production of the product.

(7) Labels shall not contain any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(8) *Health-related statements*—(i) *Definitions.* When used in this paragraph (b)(8), terms are defined as follows:

(A) *Health-related statement* means any statement related to health (other than the warning statement required by §16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled spirits, as well as statements and claims of nutritional value (*e.g.*, statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(B) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between distilled spirits, alcohol, or any

substance found within the distilled spirits, and a disease or health-related condition.

(C) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(ii) *Rules for labeling*—(A) *Health-related statements.* In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(B) *Specific health claims.* (*1*) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a distilled spirits label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a distilled spirits label.

(*2*) TTB will approve the use of a specific health claim on a distilled spirits label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(C) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption is presumed misleading unless it—

(*1*) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(*2*)(*i*) Includes as part of the health-related directional statement the following disclaimer: ''This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;'' or

(*ii*) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF–62, 44 FR 71621, Dec. 11, 1979; T.D. ATF–180, 49 FR 31673, Aug. 8, 1984; 49 FR 35768. Sept. 12, 1984; T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985; TTB T.D.–1, 68 FR 10104, Mar. 3, 2003]

## Subpart E—Standards of Fill for Bottled Distilled Spirits

### § 5.45 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled and packed in conformity with §§ 5.46 through 5.47a.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

[T.D. ATF–25, 41 FR 10221, Mar. 10, 1976; T.D. ATF–146, 48 FR 43321, Sept. 23, 1983]

### § 5.46 Standard liquor bottles.

(a) *General.* A standard liquor bottle shall be one so made and formed, and so filled, as not to mislead the purchaser. An individual carton or other container of a bottle shall not be so designed as to mislead purchasers as to the size of the bottles.

(b) *Headspace.* A liquor bottle of a capacity of 200 milliliters or more shall be held to be so filled as to mislead the

purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(c) *Design.* A liquor bottle shall be held (irrespective of the correctness of the stated net contents) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

(d) *Exceptions*—(1) *Distinctive liquor bottles.* The headspace and design requirements in paragraphs (b) and (c) of this section do not apply to liquor bottles that are specifically exempted by the appropriate TTB officer, pursuant to an application filed by the bottler or importer.

(2) *Cross reference.* For procedures regarding the issuance, denial and revocation of distinctive liquor bottle approvals, as well as appeal procedures, see part 13 of this chapter.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–25, 41 FR 10221, Mar. 10, 1976; 41 FR 11022, Mar. 16, 1976; T.D. ATF–62, 44 FR 71622, Dec. 11, 1979; T.D. ATF–146, 48 FR 43321, Sept. 23, 1983; T.D. ATF–406, 64 FR 2129, Jan. 13, 1999]

## §5.47 Standards of fill (distilled spirits bottled before January 1, 1980).

(a) *Authorized standards of fill.* The standards of fill for all distilled spirits, whether domestically bottled, or imported, subject to the tolerances allowed in this section, shall be as follows:

| | |
|---|---|
| 1 gallon. | 4/5 pint. |
| 1/2 gallon. | 1/2 pint. |
| 1 quart. | 1/8 pint. |
| 4/5 quart. | 1/10 pint. |
| 1 pint. | 1/16 pint (brandy only). |

(b) *Tolerances.* The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles to a uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) *Unreasonable shortages.* Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

(d) *Limitations.* This section does not apply after December 31, 1979.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–25, 41 FR 10221, Mar. 10, 1976; T.D. ATF–146, 48 FR 43321, Sept. 23, 1983]

## §5.47a Metric standards of fill (distilled spirits bottled after December 31, 1979).

(a) *Authorized standards of fill.* The standards of fill for distilled spirits are the following:

(1) For containers other than cans described in paragraph (a)(2), of this section—

1.75 liters
1.00 liter
750 milliliters
500 milliliters (Authorized for bottling until June 30, 1989)
375 milliliters
200 milliliters
100 milliliters
50 milliliters

(2) For metal containers which have the general shape and design of a can, which have a closure which is an integral part of the container, and which cannot be readily reclosed after opening—

355 milliliters
200 milliliters
100 milliliters
50 milliliters

(b) *Tolerances.* The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles to a uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) *Unreasonable shortages.* Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

(d) *Distilled spirits bottled before January 1, 1980.* Distilled spirits bottled domestically before January 1, 1980, may be marketed after December 31, 1979, if such distilled spirits were bottled in accordance with § 5.47. (See § 5.53 for similar provisions relating to distilled spirits imported in original containers.)

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 203); 26 U.S.C. 5301)

[T.D. ATF–25, 41 FR 10221, Mar. 10, 1976, as amended at 41 FR 11022, Mar. 16, 1976; 41 FR 11497, Mar. 19, 1976; T.D. ATF–35, 41 FR 46859, Oct. 26, 1976; T.D. ATF–62, 44 FR 71622, Dec. 11, 1979; T.D. ATF–146, 48 FR 43321, Sept. 23, 1983; T.D. ATF–228, 51 FR 16170, May 1, 1986; T.D. ATF–326, 57 FR 31128, July 14, 1992]

## Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

### § 5.51 Label approval and release.

(a) *Certificate of label approval.* Bottled distilled spirits shall not be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, TTB Form 5100.31.

(b) *Release.* If the original or photostatic copy of TTB Form 5100.31 has been approved, the brand or lot of distilled spirits bearing labels identical with those shown thereon may be released from U.S. Customs custody.

(c) *Relabeling.* Imported distilled spirits in U.S. Customs custody which are not labeled in conformity with certificates of label approval issued by the appropriate TTB officer must be relabeled prior to release under the supervision of the Customs officers of the port at which the spirits are located.

(d) *Statements of process.* TTB Forms 5100.31 covering labels for gin bearing the word ''distilled'' as a part of the designation shall be accompanied by a statement prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

(e) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–66, 45 FR 40549, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–359, 59 FR 42160, Aug. 17, 1994; T.D. ATF–406, 64 FR 2129, Jan. 13, 1999]

### § 5.52 Certificates of age and origin.

(a) *Scotch, Irish, and Canadian whiskies.* Scotch, Irish, and Canadian whiskies, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Government, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign governments for spirits intended for home consumption. In addition, a duly authorized official of the appropriate foreign government

must certify to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(b) *Brandy, Cognac, and rum.* Brandy (other than fruit brandies of a type not customarily stored in oak containers) or Cognac, imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign country certifying that the age of the youngest brandy or Cognac in the bottle is not less than 2 years, or if age is stated on the label that none of the distilled spirits are of an age less than that stated. If the label of any rum, imported in bottles, contains any statement of age, the rum shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign country, certifying to the age of the youngest rum in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in other type containers, the brandy must be accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying to such storage. Cognac, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate issued by a duly authorized official of the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as ''Cognac'' by the laws and regulations of the French Government.

(c) *Tequila.* (1) Tequila, imported in bottles, shall not be released from customs custody for consumption unless a certificate of a duly authorized official of the Mexican Government that the product is entitled to be designated as Tequila under the applicable laws and regulations of the Mexican Government is filed with the application for release.

(2) If the label of any Tequila imported in bottles, contains any statement of age, the Tequila shall not be released from customs custody for consumption unless a certificate of a duly authorized official of the Mexican Government as to the age of the youngest Tequila in the bottle is filed with the application for release. The age certified shall be the period during which the Tequila has been stored in oak containers after distillation and before bottling.

(d) *Other whiskies.* Whisky, as defined in §5.22(b) (1), (4), (5), and (6), imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, (i) the class and type thereof, (ii) the American proof at which produced, (iii) that no neutral spirits (or other whisky in the case of straight whisky) has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (iv) the age of the whisky, and (v) the type of oak container in which such age was acquired (whether new or reused; also whether charred or uncharred);

(2) In the case of whisky containing neutral spirits, (i) the class and type thereof, (ii) the percentage of straight whisky, if any, used in the blend, (iii) the American proof at which the straight whisky was produced, (iv) the percentage of other whisky, if any, in the blend, (v) the percentage of neutral spirits in the blend, and the name of the commodity from which distilled, (vi) the age of the straight whisky and the age of the other whisky in the blend, and (vii) the type of oak containers in which such age or ages were acquired (whether new or reused; also whether charred or uncharred).

(e) *Miscellaneous.* Distilled spirits (other than Scotch, Irish, and Canadian whiskies, and Cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if

the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–7, 38 FR 33471, Dec. 5, 1973]

### § 5.53 Certificate of nonstandard fill.

(a) Distilled spirits imported in original containers not conforming to the metric standards of fill prescribed in § 5.47a shall not be released from Customs custody after December 31, 1979:

(1) Unless the distilled spirits are accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to January 1, 1980; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1979.

(b) Distilled spirits imported in 500 ml containers shall not be released from Customs custody after June 30, 1989:

(1) Unless the distilled spirits are accompanied by a certificate issued by the government of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to July 1, 1989; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before June 30, 1989.

[T.D. ATF–25, 41 FR 10222, Mar. 10, 1976, as amended by T.D. ATF–228, 51 FR 16170, May 1, 1986]

## Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

### § 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (b) of this section, unless the proprietor possesses a certificate of label approval, TTB Form 5100.31, covering the labels on the bottle, issued by the appropriate TTB officer pursuant to application on such form. Application for certificates of label approval covering labels for imported gin bearing the word ''distilled'' as a part of the designation shall be accompanied by a statement prepared by the manufacturer setting forth a step-by-step description of the manufacturing process.

(b) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements in paragraph (a) of this section and § 5.56 if the bottler possesses a certificate of exemption from label approval, TTB Form 5100.31, issued by the appropriate TTB officer pursuant to application on that Form showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced into interstate or foreign commerce.

(c) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval, or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the appropriate TTB officer) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to an authorized officer of the U.S. Government.

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–66, 45 FR 40550, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–406, 64 FR 2129, Jan. 13, 1999]

### § 5.56 Certificates of age and origin.

Distilled spirits imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by § 5.52 for like distilled spirits imported in bottles.

## Subpart H—Advertising of Distilled Spirits

### §5.61 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio or television broadcast, or in any newspaper, periodical, or any publication, by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of distilled spirits, if such advertising is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§5.61 through 5.66 of this part. Provided, that such sections shall not apply to outdoor advertising in place on (effective date of this treasury decision), but shall apply upon replacement, restoration, or renovation of any such advertising; and provided further, that such sections shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television broadcast, unless such retailer or publisher or radio or television broadcaster is engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

[T.D. ATF–180, 49 FR 31673, Aug. 8, 1984]

### §5.62 Definition.

As used in §§5.61 through 5.66 of this part, the term ''advertisement'' includes any written or verbal statement, illlustration, or depiction which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or in any written, printed, graphic, or other matter accompanying the bottle, representations made on cases or in any billboard, sign, other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle which constitute a part of the labeling under §§5.31 through 5.42 of this part.

(b) Any editorial or other reading material (*i.e.*, news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

[T.D. ATF–180, 49 FR 31673, Aug. 8, 1984]

### §5.63 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class and type.* The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcohol content*—(1) *Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as ''Rock and Rye'' or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: ''Bottled at _____ percent-alcohol-by-volume.''

(2) *Optional statement.* In addition, the advertisement may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(d) *Percentage of neutral spirits and name of commodity.* (1) In the case of

distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: ''___% neutral spirits distilled from _____ (insert grain, cane products, or fruit, as appropriate)''; or ___% neutral spirits (vodka) distilled from _____ (insert grain, cane product, or fruit, as appropriate)''; or ''___% grain (cane products), (fruit) neutral spirits''; or ''___% grain spirits''.

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled. The statement of the name of the commodity shall be made in substantially the following form: ''Distilled from grain'', or ''Distilled from cane products'', or ''Distilled from fruit.''

(e) *Exception.* (1) If an advertisement refers to a general distilled spirits line or all of the distilled spirits products of one company, whether by the company name or by the brand name common to all the distilled spirits in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of distilled spirits is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–180, 49 FR 31674, Aug. 8, 1984; T.D. ATF–237, 51 FR 36394, Oct. 10, 1986]

### § 5.64 Legibility of mandatory information.

(a) Statements required under §§ 5.61 through 5.66 of this part to appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(d) Manadatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audio-visual media that it will be readily apparent to the persons viewing the advertisement.

[T.D. ATF–180, 49 FR 31674, Aug. 8, 1984]

### § 5.65 Prohibited practices.

(a) *Restrictions.* An advertisement of distilled spirits shall not contain:

(1) Any statement that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) Any statement that the distilled spirits are distilled, blended, made, bottled, or sold under or in accordance with any municipal, State, Federal, or

foreign authorization, law, or regulation, unless such statement appears in the manner authorized by §5.42 for labels of distilled spirits. If a municipal, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The words ''bond'', ''bonded'', ''bottled in bond'', ''aged in bond'', or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to §5.42, on labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are permitted to appear on the label.

(8) The word ''pure'' unless:

(i) It refers to a particular ingredient used in the production of the distilled spirits, and is a truthful representation about the ingredient; or

(ii) It is part of the bona fide name of a permittee or retailer from whom the distilled spirits are bottled; or

(iii) It is part of the bona fide name of the permittee who bottled the distilled spirits.

(9) The words ''double distilled'' or ''triple distilled'' or any similar terms unless it is a truthful statement of fact; except that ''double distilled'' or ''triple distilled'' shall not be permitted in advertisements of distilled spirits produced by the redistillation method when a second or third distillation step is a necessary distillation process for the production of the product.

(b) *Statements inconsistent with labeling.* (1) Advertisements shall not contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.

(2) Any label depicted on a bottle in an advertisement shall be a reproduction of an approved label.

(c) *Statement of age.* The advertisement shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of §§5.31 through 5.42. An advertisement for any whisky or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum or Tequila, which has been aged for not less than 4 years may, however, contain inconspicuous, general representation as to age, maturity or other similar representations even though a specific age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) *Health-related statements*—(1) *Definitions.* When used in this paragraph (d), terms are defined as follows:

(i) *Health-related statement* means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled spirits, as well as statements and claims of nutritional value (*e.g.*, statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within

the context in which they are presented, that a relationship exists between distilled spirits, alcohol, or any substance found within the distilled spirits, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(2) *Rules for advertising*—(i) *Health-related statements.* In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) *Specific health claims.* A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(B)(*1*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: ''This statement should not encourage you to drink or increase your alcohol consumption for health reasons;'' or

(*2*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(e) *Place of origin.* The advertisement shall not represent that the distilled spirits were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(f) *Confusion of brands.* Two or more different brands or lots of distilled spirits shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provisions of this subpart or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* An advertisement shall not contain any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the

supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. ''Subliminal or similar techniques,'' as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF–180, 49 FR 31674, Aug. 8, 1984; TTB T.D.–1, 68 FR 10105, Mar. 3, 2003]

### § 5.66 Comparative advertising.

(a) *General.* Comparative advertising shall not be disparaging of a competitor's product.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the *Manual on Sensory Testing Methods,* ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68–15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

[T.D. ATF–180, 49 FR 31674, Aug. 8, 1984]

## Subpart I—Use of the Term ''Organic.''

### § 5.71 Use of the term "organic."

(a) Use of the term ''organic'' is optional and is treated as ''additional information on labels'' under § 5.33(f).

(b) Any use of the term ''organic'' on a distilled spirits label or in advertising of distilled spirits must comply with the United States Department of Agriculture's (USDA) National Organic Program rules, 7 CFR part 205, as interpreted by the USDA.

(c) This section applies to labels and advertising that use the term ''organic'' on and after October 21, 2002.

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002]

# PART 6—''TIED-HOUSE''

## Subpart A—Scope of Regulations

Sec.
6.1 General.
6.2 Territorial extent.
6.3 Application.
6.4 Jurisdictional limits.
6.5 Delegations of the Administrator.
6.6 Administrative provisions.

## Subpart B—Definitions

6.11 Meaning of terms.

## Subpart C—Unlawful Inducements

GENERAL

6.21 Application.

INTEREST IN RETAIL LICENSE

6.25 General.
6.26 Indirect interest.
6.27 Proprietary interest.

INTEREST IN RETAIL PROPERTY

6.31 General.
6.32 Indirect interest.
6.33 Proprietary interest.
6.34 Mortgages.
6.35 Renting display space.

FURNISHING THINGS OF VALUE

6.41 General.
6.42 Indirect inducement through third party arrangements.
6.43 Sale of equipment.
6.44 Free warehousing.
6.45 Assistance in acquiring license.
6.46–6.47 [Reserved]

PAYING FOR ADVERTISING, DISPLAY OR DISTRIBUTION SERVICE

6.51 General.
6.52 Cooperative advertising.
6.53 Advertising in ballparks, racetracks, and stadiums.
6.54 Advertising in retailer publications.
6.55 Display service.
6.56 Renting display space.

GUARANTEEING LOANS

6.61 Guaranteeing loans.

EXTENSION OF CREDIT

6.65 General.
6.66 Calculation of period.

6.67 Sales to retailer whose account is in arrears.

QUOTA SALES

6.71 Quota sales.
6.72 ''Tie-in'' sales.

### Subpart D—Exceptions

6.81 General.
6.82 [Reserved]
6.83 Product displays.
6.84 Point of sale advertising materials and consumer advertising specialties.
6.85 Temporary retailers.
6.86–6.87 [Reserved]
6.88 Equipment and supplies.
6.89–6.90 [Reserved]
6.91 Samples.
6.92 Newspaper cuts.
6.93 Combination packaging.
6.94 Educational seminars.
6.95 Consumer tasting or sampling at retail establishments.
6.96 Consumer promotions.
6.97 [Reserved]
6.98 Advertising service.
6.99 Stocking, rotation, and pricing service.
6.100 Participation in retailer association activities.
6.101 Merchandise.
6.102 Outside signs.

### Subpart E—Exclusion

6.151 Exclusion, in general.
6.152 Practices which put retailer independence at risk.
6.153 Criteria for determining retailer independence.

AUTHORITY: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

SOURCE: T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, unless otherwise noted.

## Subpart A—Scope of Regulations

### § 6.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices that are means to induce under section 105(b) of the Act, criteria for determining whether a practice is a violation of section 105(b) of the Act, and exceptions to section 105(b) of the Act. This part does not attempt to enumerate all of the practices that may result in a violation of section 105(b) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### § 6.2 Territorial extent.

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

### § 6.3 Application.

(a) *General.* This part applies only to transactions between industry members and retailers. It does not apply to transactions between two industry members (for example, between a producer and a wholesaler), or to transactions between an industry member and a retailer wholly owned by that industry member.

(b) *Transaction involving State agencies.* The regulations in this part apply only to transactions between industry members and State agencies operating as retailers as defined in this part. The regulations do not apply to State agencies with regard to their wholesale dealings with retailers.

### § 6.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member induces a retailer to purchase distilled spirits, wine, or malt beverages from such industry member to the exclusion in whole or in part of products sold or offered for sale by other persons in interstate or foreign commerce; and

(2) If: (i) The inducement is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in the practice of using an inducement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the inducement is to prevent, deter, hinder or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside

such State only to the extent that the law of such State imposes requirements similar to the requirements of section 105(b) of the Federal Alcohol Administration Act (27 U.S.C. 205(b)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler or malt beverage in such State, as the case may be.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### §6.5 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.6, Delegation of the Administrator's Authorities in 27 CFR Part 6, *Tied-House*. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16922, Apr. 4, 2006]

### §6.6 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Administrator under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Administrator under this Act. The Act also provides that the Administrator is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and subpoena.* Any appropriate TTB officer shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. An appropriate TTB officer shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the appropriate TTB officer*—(1) *General.* The appropriate TTB officer may, as part of a trade practice investigation of an industry member, require such industry member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the appropriate TTB officer. The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0392)

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995. Redesignated and amended by T.D. ATF–428, 65 FR 52019, Aug. 28, 2000]

## Subpart B—Definitions

### §6.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement

of this part by TTB Order 1135.6, Delegation of the Administrator's Authorities in 27 CFR Part 6, *Tied-House*.

*Brand.* For purposes of administering this part, the term ''brand'' refers to differences in the brand name of a product or in the nature of a product. Examples of different brands are products having a different brand name or class, type, or kind designation; appellation of origin (wine); vintage date (wine); age (distilled spirits); or percentage of alcohol. Differences in packaging such as difference in label design or color, or a different style, type or size of container are not considered different brands.

*Equipment.* All functional items such as tap boxes, glassware, pouring racks, and similar items used in the conduct of a retailer's business.

*Industry member.* Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehousemen and bottler, of distilled spirits; industry member does not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

*Product.* Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

*Retail establishment.* Any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

*Retailer.* Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. A wholesaler who makes incidental retail sales representing less than five percent of the wholesaler's total sales volume for the preceding two-month period shall not be considered a retailer with respect to such incidental sales.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20421, Apr. 26, 1995; T.D. ATF–428, 65 FR 52020, Aug. 28, 2000; T.D. TTB–44, 71 FR 16922, Apr. 4, 2006]

## Subpart C—Unlawful Inducements

GENERAL

### § 6.21 Application.

Except as provided in subpart D, it is unlawful for any industry member to induce, directly or indirectly, any retailer to purchase any products from the industry member to the exclusion, in whole or in part, of such products sold or offered for sale by other persons in interstate or foreign commerce by any of the following means:

(a) By acquiring or holding (after the expiration of any license held at the time the FAA Act was enacted) any interest in any license with respect to the premises of the retailer;

(b) By acquiring any interest in the real or personal property owned, occupied, or used by the retailer in the conduct of his business;

(c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to the exceptions contained in subpart D;

(d) By paying or crediting the retailer for any advertising, display, or distribution service;

(e) By guaranteeing any loan or the repayment of any financial obligation of the retailer;

(f) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as prescribed in § 6.65; or

(g) By requiring the retailer to take and dispose of a certain quota of any such products.

INTEREST IN RETAIL LICENSE

### § 6.25 General.

The act by an industry member of acquiring or holding any interest in any license (State, county or municipal) with respect to the premises of a retailer constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### § 6.26 Indirect interest.

Industry member interest in retail licenses includes any interest acquired

by corporate officials, partners, employees or other representatives of the industry member. Any interest in a retail license acquired by a separate corporation in which the industry member or its officials, hold ownership or are otherwise affiliated, is an interest in a retail license.

### §6.27 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not an interest which may result in a violation of section 105(b)(1) of the Act.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes an interest in a retail license within the meaning of the Act.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

INTEREST IN RETAIL PROPERTY

### §6.31 General.

The act by an industry member of acquiring an interest in real or personal property owned, occupied, or used by the retailer in the conduct of business constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### §6.32 Indirect interest.

Industry member interest in retail property includes any interest acquired by corporate officials, partners, employees or other representatives of the industry member. Any interest in retail property acquired by a separate corporation in which the industry member or its officials, hold ownership or are otherwise affiliated, is an interest in retail property.

### §6.33 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not an interest that may result in a violation of section 105(b)(2) of the Act.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes an interest in retail property within the meaning of the Act.

[ T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### §6.34 Mortgages.

The acquisition of a mortgage on a retailer's real or personal property by an industry member constitutes an interest in the retailer's property within the meaning of the Act.

### §6.35 Renting display space.

The renting of display space by an industry member at a retail establishment constitutes an interest in the retailer's property within the meaning of the Act.

FURNISHING THINGS OF VALUE

### §6.41 General.

Subject to the exceptions listed in subpart D, the act by an industry member of furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, services, or other things of value to a retailer constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### §6.42 Indirect inducement through third party arrangements.

(a) *General.* The furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other thing of value by an industry member to a third party, where the benefits resulting from such things of value flow to individual retailers, is the indirect furnishing of a thing of value within the meaning of the Act. Indirect furnishing of a thing of value includes, but is not limited to, making payments for advertising to a retailer association or a display company where the resulting benefits flow to individual retailers.

(b) *Exceptions.* An indirect inducement will not arise where the thing of value was furnished to a retailer by the third party without the knowledge or intent of the industry member, or the industry member did not reasonably foresee that the thing of value would have been furnished to a retailer.

Things which may lawfully be furnished, given, rented, lent, or sold by industry members to retailers under subpart D may also be furnished directly by a third party to a retailer.

[T.D. ATF–364, 60 FR 20421, Apr. 26, 1995]

### § 6.43 Sale of equipment.

A transaction in which equipment is sold to a retailer by an industry member, except as provided in § 6.88, is the selling of equipment in within the meaning of the Act regardless of how sold. Further, the negotiation by an industry member of a special price to a retailer for equipment from an equipment company is the furnishing of a thing of value within the meaning of the Act.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### § 6.44 Free warehousing.

The furnishing of free warehousing by delaying delivery of distilled spirits, wine, or malt beverages beyond the time that payment for the product is received, or if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended, is the furnishing of a service or thing of value within the meaning of the Act.

### § 6.45 Assistance in acquiring license.

Any assistance (financial, legal, administrative or influential) given the retailer by an industry member in the retailer's acquisition of the retailer's license is the furnishing of a service or thing of value within the meaning of the Act.

### §§ 6.46–6.47 [Reserved]

PAYING FOR ADVERTISING, DISPLAY OR DISTRIBUTION SERVICE

### § 6.51 General.

The act by an industry member of paying or crediting a retailer for any advertising, display, or distribution service constitutes a means to induce within the meaning of the Act, whether or not the advertising, display, or distribution service received by the industry member in these instances is commensurate with the amount paid therefor. This includes payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### § 6.52 Cooperative advertising.

An arrangement in which an industry member participates with a retailer in paying for an advertisement placed by the retailer constitutes paying the retailer for advertising within the meaning of the Act.

### § 6.53 Advertising in ballparks, racetracks, and stadiums.

The purchase, by an industry member, of advertising on signs, scoreboards, programs, scorecards, and the like at ballparks, racetracks or stadiums, from the retail concessionaire constitutes paying the retailer for an advertising service within the meaning of the Act.

### § 6.54 Advertising in retailer publications.

The purchase, by an industry member, of advertising in a retailer publication for distribution to consumers or the general public constitutes paying the retailer for advertising within the meaning of the Act.

### § 6.55 Display service.

Industry member reimbursements to retailers for setting up product or other displays constitutes paying the retailer for rendering a display service within the meaning of the Act.

### § 6.56 Renting display space.

A promotion whereby an industry member rents display space at a retail establishment constitutes paying the retailer for rendering a display service within the meaning of the Act.

GUARANTEEING LOANS

### § 6.61 Guaranteeing loans.

The act by an industry member of guaranteeing any loan or the repayment of any financial obligation of a

retailer constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

EXTENSION OF CREDIT

### §6.65 General.

Extension of credit by an industry member to a retailer for a period of time in excess of 30 days from the date of delivery constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### §6.66 Calculation of period.

For the purpose of this part, the period of credit is calculated as the time elapsing between the date of delivery of the product and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

### §6.67 Sales to retailer whose account is in arrears.

An extension of credit (for product purchases) by an industry member to a retailer whose account is in arrears does not constitute a means to induce within the meaning of the Act so long as such retailer pays in advance or on delivery an amount equal to or greater than the value of each order, regardless of the manner in which the industry member applies the payment in its records.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

QUOTA SALES

### §6.71 Quota sales.

The act by an industry member of requiring a retailer to take and dispose of any quota of distilled spirits, wine, or malt beverages constitutes a means to induce within the meaning of the Act.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### §6.72 "Tie-in" sales.

The act by an industry member of requiring that a retailer purchase one product (as defined in §6.11) in order to obtain another constitutes a means to induce within the meaning of the Act. This includes the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium package, i.e., a distinctive decanter, or wooden or tin box. This also includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not precluded from selling two or more kinds or brands of products to a retailer at a special combination price, provided the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product it does not want. See §6.93 for combination packaging of products plus non-alcoholic items.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

## Subpart D—Exceptions

### §6.81 General.

(a) *Application.* Section 105(b)(3) of the Act enumerates means to induce that may be unlawful under the subsection, subject to such exceptions as are prescribed in regulations, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of that section. This subpart implements section 105(b)(3) of the Act and identifies the practices that are exceptions to section 105(b)(3) of the Act. An industry member may furnish a retailer equipment, inside signs, supplies, services, or other things of value, under the conditions and within the limitations prescribed in this subpart.

(b) *Recordkeeping Requirements.* (1) Industry members shall keep and maintain records on the permit or brewery premises, for a three year period, of all items furnished to retailers under §§6.83, 6.88, 6.91, 6.96(a), and 6.100 and the commercial records required under §6.101. Commercial records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

(i) The name and address of the retailer receiving the item;

(ii) The date furnished;

(iii) The item furnished;

(iv) The industry member's cost of the item furnished (determined by the manufacturer's invoice price); and

(v) Charges to the retailer for any item.

(2) Although no separate record-keeping violation results, an industry member who fails to keep such records is not eligible for the exception claimed.

(Approved by the Office of Management and Budget under control number 1512–0392)

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### § 6.82 [Reserved]

### § 6.83 Product displays.

(a) *General.* The act by an industry member of giving or selling product displays to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definition.* ''Product display'' means any wine racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.

(c) *Conditions and limitations.* (1) The total value of all product displays given or sold by an industry member under paragraph (a) of this section may not exceed $300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of $300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

(3) The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display.

[T.D. ATF–364, 60 FR 20422, Apr. 26, 1995]

### § 6.84 Point of sale advertising materials and consumer advertising specialties.

(a) *General.* The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definitions*—(1) *Point of sale advertising materials* are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

(2) *Consumer advertising specialties* are items that are designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

(c) *Conditions and limitations.* (1) All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

(2) The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §6.85 Temporary retailers.

(a) *General.* The furnishing of things of value to a temporary retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* For purposes of administering this part, a temporary retailer is a dealer who is not engaged in business as a retailer for more than four consecutive days per event, and for not more than five events in a calendar year.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §§6.86–6.87 [Reserved]

### §6.88 Equipment and supplies.

(a) *General.* The act by an industry member of selling equipment or supplies to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer's establishment does not constitute a means to induce within the meaning of the Act as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* ''Equipment and supplies'' means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. ''Dispensing accessories'' include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §§6.89–6.90 [Reserved]

### §6.91 Samples.

The act by an industry member of furnishing or giving a sample of distilled spirits, wine, or malt beverages to a retailer who has not purchased the brand from that industry member within the last 12 months does not constitute a means to induce within the meaning of section 105(b)(3) of the Act. For each retail establishment the industry member may give not more than 3 gallons of any brand of malt beverage, not more than 3 liters of any brand of wine, and not more than 3 liters of distilled spirits. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next larger size.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §6.92 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §6.93 Combination packaging.

The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### §6.94 Educational seminars.

An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment. Examples would be seminars dealing with use of a retailer's equipment, training seminars for employees of retailers, or tours of industry member's plant premises. This section does not authorize an industry member to pay a retailer's expense in conjunction with an educational seminar (such as travel and lodging). This does not preclude providing nominal hospitality during the event.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### § 6.95 Consumer tasting or sampling at retail establishments.

An industry member may conduct tasting or sampling activities at a retail establishment. The industry member may purchase the products to be used from the retailer, but may not purchase them from the retailer for more than the ordinary retail price.

### § 6.96 Consumer promotions.

(a) *Coupons.* The act by an industry member of furnishing to consumers coupons which are redeemable at a retail establishment does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided the following conditions are met:

(1) All retailers within the market where the coupon offer is made may redeem such coupons; and

(2) An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

(b) *Direct offerings.* Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Officers, employees and representatives of wholesalers or retailers are excluded from participation.

[T.D. ATF–74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### § 6.97 [Reserved]

### § 6.98 Advertising service.

The listing of the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

(a) The advertisement does not also contain the retail price of the product (except where the exclusive retailer in the jurisdiction is a State or a political subdivision of a State), and

(b) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole, and

(c) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer, except where the retailer is an agency of a State or a political subdivision of a State.

[T.D. ATF–364, 60 FR 20423, Apr. 26, 1995]

### § 6.99 Stocking, rotation, and pricing service.

(a) *General.* Industry members may, at a retail establishment, stock, rotate and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

(b) *Shelf plan and shelf schematics.* The act by an industry member of providing a recommended shelf plan or shelf schematic for distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

[T.D. ATF–364, 60 FR 20424, Apr. 26, 1995]

### § 6.100 Participation in retailer association activities.

The following acts by an industry member participating in retailer association activities do not constitute a means to induce within the meaning of section 105(b)(3) of the Act:

(a) Displaying its products at a convention or trade show;

(b) Renting display booth space if the rental fee is the same as paid by all exhibitors at the event;

(c) Providing its own hospitality which is independent from association sponsored activities;

(d) Purchasing tickets to functions and paying registration fees if the payments or fees are the same as paid by all attendees, participants or exhibitors at the event; and

(e) Making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed $300 per year for any retailer association.

[T.D. ATF–364, 60 FR 20424, Apr. 26, 1995]

### §6.101 Merchandise.

(a) *General.* The act by an industry member, who is also in business as a bona fide producer or vendor of other merchandise (for example, groceries or pharmaceuticals), of selling that merchandise to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

(1) The merchandise is sold at its fair market value;

(2) The merchandise is not sold in combination with distilled spirits, wines, or malt beverages (except as provided in §6.93);

(3) The industry member's acquisition or production costs of the merchandise appears on the industry member's purchase invoices or other records; and

(4) The individual selling prices of merchandise and distilled spirits, wines, or malt beverages sold in a single transaction can be determined from commercial documents covering the sales transaction.

(b) *Things of value covered in other sections of this part.* The act by an industry member of providing equipment, fixtures, signs, glassware, supplies, services, and advertising specialties to retailers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act only as provided in other sections within this part.

[T.D. ATF–364, 60 FR 20424, Apr. 26, 1995]

### §6.102 Outside signs.

The act by an industry member of giving or selling outside signs to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that:

(a) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed;

(b) The retailer is not compensated, directly or indirectly such as through a sign company, for displaying the signs; and

(c) The cost of the signs may not exceed $400.

[T.D. ATF–364, 60 FR 20424, Apr. 26, 1995]

## Subpart E—Exclusion

SOURCE: T.D. ATF–364, 60 FR 20424, Apr. 26, 1995, unless otherwise noted.

### §6.151 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer; and

(2) Such practice results in the retailer purchasing less than it would have of a competitor's product.

(b) Section 6.152 lists practices that create a tie or link that places retailer independence at risk. Section 6.153 lists the criteria used for determining whether other practices can put retailer independence at risk.

### §6.152 Practices which put retailer independence at risk.

The practices specified in this section put retailer independence at risk. The practices specified here are examples and do not constitute a complete list of those practices that put retailer independence at risk.

(a) The act by an industry member of resetting stock on a retailer's premises (other than stock offered for sale by the industry member).

(b) The act by an industry member of purchasing or renting display, shelf, storage or warehouse space (*i.e.* slotting allowance).

(c) Ownership by an industry member of less than a 100 percent interest in a retailer, where such ownership is used to influence the purchases of the retailer.

(d) The act by an industry member of requiring a retailer to purchase one alcoholic beverage product in order to be allowed to purchase another alcoholic beverage product at the same time.

### §6.153 Criteria for determining retailer independence.

The criteria specified in this section are indications that a particular practice, other than those in §6.152, places

retailer independence at risk. A practice need not meet all of the criteria specified in this section in order to place retailer independence at risk.

(a) The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.

(b) The industry member obligates the retailer to participate in the promotion to obtain the industry member's product.

(c) The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

(f) The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

# PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

## Subpart A—Scope

Sec.
7.1 General.
7.2 Territorial extent.
7.3 Forms prescribed.
7.4 Related regulations.
7.5 Delegations of the Administrator.

## Subpart B—Definitions

7.10 Meaning of terms.
7.11 Use of ingredients containing alcohol in malt beverages; processing of malt beverages.

## Subpart C—Labeling Requirements for Malt Beverages

7.20 General.
7.21 Misbranding.
7.22 Mandatory label information.
7.22a Voluntary disclosure of major food allergens.
7.22b Petitions for exemption from major food allergen labeling.
7.23 Brand names.
7.24 Class and type.
7.25 Name and address.
7.26 Alcoholic content [suspended as of April 19, 1993; see §7.71].
7.27 Net contents.
7.28 General requirements.
7.29 Prohibited practices.

## Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

7.30 Application.
7.31 Label approval and release.

## Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

7.40 Application.
7.41 Certificates of label approval.
7.42 Exhibiting certificates to Government officials.

## Subpart F—Advertising of Malt Beverages

7.50 Application.
7.51 Definitions.
7.52 Mandatory statements.
7.53 Legibility of mandatory information.
7.54 Prohibited practices.
7.55 Comparative advertising.

## Subpart G—General Provisions

7.60 Exports.

## Subpart H—Interim Regulations for Alcoholic Content Statements

7.71 Alcoholic content.

## Subpart I—Use of the Term ''Organic.''

7.81 Use of the term ''organic.''

AUTHORITY: 27 U.S.C. 205.

SOURCE: T.D. 6521, 25 FR 13859, Dec. 29, 1960, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 7 appear by T.D. ATF–425, 65 FR 11891, Mar. 7, 2000.

## Subpart A—Scope

### §7.1 General.

The regulations in this part relate to the labeling and advertising of malt beverages.

### §7.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

### §7.3 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–92, 46 FR 46912, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987; T.D. 372, 61 FR 20723, May 8, 1996; T.D. ATF–425, 65 FR 11891, Mar. 7, 2000; T.D. TTB–44, 71 FR 16922, Apr. 4, 2006]

### §7.4 Related regulations.

The following regulations also relate to this part:

27 CFR Part 205—National Organic Program
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits
27 CFR Part 4—Labeling and Advertising of Wine
27 CFR Part 5—Labeling and Advertising of Distilled Spirits
27 CFR Part 13—Labeling Proceedings
27 CFR Part 16—Alcoholic Beverage Health Warning Statement
27 CFR Part 25—Beer
27 CFR Part 26—Liquors and Articles from Puerto Rico and the Virgin Islands
27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer
27 CFR Part 71—Rules of Practice in Permit Proceedings

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002]

### §7.5 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.7, Delegation of the Administrator's Authorities in 27 CFR Part 7, Labeling and Advertising of Malt Beverages. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16922, Apr. 4, 2006]

## Subpart B—Definitions

### §7.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Advertisement.* See §7.51 for meaning of term as used in subpart F of this part.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.7, Delegation of the Administrator's Authorities in 27 CFR Part 7, Labeling and Advertising of Malt Beverages.

*Brand label.* The label carrying, in the usual distinctive design, the brand name of the malt beverage.

*Bottler.* Any person who places malt beverages in containers of a capacity of one gallon or less.

*Container.* Any can, bottle, barrel, keg, or other closed receptacle, irrespective of size or of the material from which made, for use for the sale of malt beverages at retail.

*Gallon.* A U.S. gallon of 231 cubic inches of malt beverages at 39.1 °F (4 °C). All other liquid measures used are subdivisions of the gallon as defined.

*Interstate or foreign commerce.* Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same

State but through any place outside thereof.

*Malt beverage.* A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption. Standards applying to the use of processing methods and flavors in malt beverage production appear in § 7.11.

*Other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

*Packer.* Any person who places malt beverages in containers of a capacity in excess of one gallon.

*Person.* Any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

*United States.* The several States, the District of Columbia, and Puerto Rico; the term ''State'' includes the District of Columbia and Puerto Rico.

[T.D. ATF–48, 43 FR 13534, Mar. 31, 1978; 44 FR 55839, Sept. 28, 1979, as amended by T.D. ATF–66, 45 FR 40550, June 13, 1980; T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–344, 58 FR 40354, July 28, 1993; T.D. ATF–425, 65 FR 11892, Mar. 7, 2000; TTB T.D.–21, 70 FR 234, Jan. 3, 2005; T.D. TTB–44, 71 FR 16923, Apr. 4, 2006]

### § 7.11 Use of ingredients containing alcohol in malt beverages; processing of malt beverages.

(a) *Use of flavors and other nonbeverage ingredients containing alcohol*—

(1) *General.* Flavors and other nonbeverage ingredients containing alcohol may be used in producing a malt beverage. Except as provided in paragraph (a)(2) of this section, no more than 49% of the overall alcohol content of the finished product may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. For example, a finished malt beverage that contains 5.0% alcohol by volume must derive a minimum of 2.55% alcohol by volume from the fermentation of barley malt and other materials and may derive not more than 2.45% alcohol by volume from the addition of flavors and other nonbeverage ingredients containing alcohol.

(2) In the case of malt beverages with an alcohol content of more than 6% by volume, no more than 1.5% of the volume of the malt beverage may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

(b) *Processing.* Malt beverages may be filtered or otherwise processed in order to remove color, taste, aroma, bitterness, or other characteristics derived from fermentation.

[TTB T.D.–21, 70 FR 234, Jan. 3, 2005]

## Subpart C—Labeling Requirements for Malt Beverages

### § 7.20 General.

(a) *Application.* This subpart shall apply to malt beverages sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

(b) *Marking, branding, and labeling.* No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from Customs custody any malt beverages in containers unless the malt beverages are packaged, and the packages are marked, branded, and labeled in conformity with this subpart.

(c) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any

mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law. The appropriate TTB officer may, upon written application, permit additional labeling or relabeling of malt beverages in containers if, in his judgment, the facts show that the additional labeling or relabeling is for the purpose of compliance with the requirements of this subpart or of State law.

(2) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed labels, together with a statement of the reasons for relabeling, the quantity and the location of the malt beverages, and the name and address of the person by whom they will be relabeled.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF–66, 45 FR 40551, June 13, 1980; T.D. ATF–425, 65 FR 11892, Mar. 7, 2000]

### § 7.21 Misbranding.

Malt beverages in containers shall be deemed to be misbranded:

(a) If the container fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by §§ 7.20 through 7.29 and conforming to the general requirements specified in this part.

(b) If the container, cap, or any label on the container, or any carton, case, or other covering of the container used for sale at retail, or any written, printed, graphic, or other matter accompanying the container to the consumer buyer contains any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 7.20 through 7.29.

(c) If the container has blown, branded, or burned therein the name or other distinguishing mark of any person engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, or of any other person, except the person whose name is required to appear on the brand label.

### § 7.22 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name, in accordance with § 7.23.

(2) Class, in accordance with § 7.24.

(3) Name and address (except when branded or burned in the container) in accordance with § 7.25, except as provided in paragraph (b) of this section.

(4) Net contents (except when blown, branded, or burned, in the container) in accordance with § 7.27.

(5) Alcohol content in accordance with § 7.71, for malt beverages that contain any alcohol derived from added flavors or other added nonbeverage ingredients (other than hops extract) containing alcohol.

(b) On the brand label or on a separate label (back or front):

(1) In the case of imported malt beverages, name and address of importer in accordance with § 7.25.

(2) In the case of malt beverages bottled or packed for the holder of a permit or a retailer, the name and address of the bottler or packer, in accordance with § 7.25.

(3) Alcoholic content, when required by State law, in accordance with § 7.71.

(4) A statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(5) [Reserved]

(6) *Declaration of sulfites.* The statement ''Contains sulfites'' or ''Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The sulfite declaration may appear on a strip label or neck label in lieu of appearing on the front or back label. The provisions of this paragraph shall apply to:

(i) Any certificate of label approval issued on or after January 9, 1987;

(ii) Any malt beverage bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(iii) Any malt beverage removed on or after January 9, 1988.

(7) Declaration of aspartame. The following statement, in capital letters, separate and apart from all other information, when the product contains aspartame in accordance with Food and

Drug Administration (FDA) regulations:

''PHENYLKETONURICS: CONTAINS PHENYLALANINE.''

(Paragraph (b)(6) approved by the Office of Management and Budget under Control No. 1512–0469)

[T.D. 6521, 25 FR 13859, Dec. 29, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §7.22, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 7.22a Voluntary disclosure of major food allergens.

(a) *Definitions.* For purposes of this section the following terms have the meanings indicated.

(1) *Major food allergen. Major food allergen* means any of the following:

(i) Milk, egg, fish (for example, bass, flounder, or cod), Crustacean shellfish (for example, crab, lobster, or shrimp), tree nuts (for example, almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food specified in paragraph (a)(1)(i) of this section, except:

(A) Any highly refined oil derived from a food specified in paragraph (a)(1)(i) of this section and any ingredient derived from such highly refined oil; or

(B) A food ingredient that is exempt from major food allergen labeling requirements pursuant to a petition for exemption approved by the Food and Drug Administration (FDA) under 21 U.S.C. 343(w)(6) or pursuant to a notice submitted to FDA under 21 U.S.C. 343(w)(7), provided that the food ingredient meets the terms or conditions, if any, specified for that exemption.

(2) *Name of the food source from which each major food allergen is derived. Name of the food source from which each major food allergen is derived* means the name of the food as listed in paragraph (a)(1)(i) of this section, except that:

(i) In the case of a tree nut, it means the name of the specific type of nut (for example, almonds, pecans, or walnuts); and

(ii) In the case of Crustacean shellfish, it means the name of the species of Crustacean shellfish (for example, crab, lobster, or shrimp); and

(iii) The names ''egg'' and ''peanuts'', as well as the names of the different types of tree nuts, may be expressed in either the singular or plural form, and the name ''soy'', ''soybean'', or ''soya'' may be used instead of ''soybeans''.

(b) *Voluntary labeling standards.* Major food allergens (defined in paragraph (a)(1) of this section) used in the production of a malt beverage product may, on a voluntary basis, be declared on any label affixed to the container. However, if any one major food allergen is voluntarily declared, all major food allergens used in production of the malt beverage product, including major food allergens used as fining or processing agents, must be declared, except when covered by a petition for exemption approved by the appropriate TTB officer under §7.22b. The major food allergens declaration must consist of the word ''Contains'' followed by a colon and the name of the food source from which each major food allergen is derived (for example, ''Contains: egg'').

(c) *Cross reference.* For mandatory labeling requirements applicable to malt beverage products containing FD&C Yellow No. 5, sulfites, and aspartame, see §§7.22(b)(4), (b)(6), and (b)(7).

[T.D. TTB–53, 71 FR 42269, July 26, 2006]

### § 7.22b Petitions for exemption from major food allergen labeling.

(a) *Submission of petition.* Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of §7.22a. The burden is on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(2) Does not contain allergenic protein derived from one of the foods identified in §7.22(a)(1)(i), even though a major food allergen was used in production.

(b) *Decision on petition.* TTB will approve or deny a petition for exemption

submitted under paragraph (a) of this section in writing within 180 days of receipt of the petition. If TTB does not provide a written response to the petitioner within that 180-day period, the petition will be deemed denied, unless an extension of time for decision is mutually agreed upon by the appropriate TTB officer and the petitioner. TTB may confer with the Food and Drug Administration (FDA) on petitions for exemption, as appropriate and as FDA resources permit. TTB may require the submission of product samples and other additional information in support of a petition; however, unless required by TTB, the submission of samples or additional information by the petitioner after submission of the petition will be treated as the withdrawal of the initial petition and the submission of a new petition. An approval or denial under this section will constitute a final agency action.

(c) *Resubmission of a petition.* After a petition for exemption is denied under this section, the petitioner may resubmit the petition along with supporting materials for reconsideration at any time. TTB will treat this submission as a new petition.

(d) *Availability of information*—(1) *General.* TTB will promptly post to its public Web site, *http://www.ttb.gov,* all petitions received under this section as well as TTB's responses to those petitions. Any information submitted in support of the petition that is not posted to the TTB Web site will be available to the public pursuant to 5 U.S.C. 552, except where a request for confidential treatment is granted under paragraph (d)(2) of this section.

(2) *Requests for confidential treatment of business information.* A person who provides trade secrets or other commercial or financial information in connection with a petition for exemption under this section may request that TTB give confidential treatment to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

[T.D. TTB–53, 71 FR 42269, July 26, 2006]

## § 7.23 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate TTB officer finds that such brand name, either when qualified by the word ''brand'' or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided,* That if such trade name or brand

is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

**§ 7.24 Class and type.**

(a) The class of the malt beverage shall be stated and, if desired, the type thereof may be stated. Statements of class and type shall conform to the designation of the product as known to the trade. If the product is not known to the trade under a particular designation, a distinctive or fanciful name, together with an adequate and truthful statement of the composition of the product, shall be stated, and such statement shall be deemed to be a statement of class and type for the purposes of this part.

(b) Malt beverages which have been concentrated by the removal of water therefrom and reconstituted by the addition of water and carbon dioxide shall for the purpose of this part be labeled in the same manner as malt beverages which have not been concentrated and reconstituted, except that there shall appear in direct conjunction with, and as a part of, the class designation the statement ''PRODUCED FROM _____ CONCENTRATE'' (the blank to be filled in with the appropriate class designation). All parts of the class designation shall appear in lettering of substantially the same size and kind.

(c) No product shall be designated as ''half and half'' unless it is in fact composed of equal parts of two classes of malt beverages the names of which are conspicuously stated in conjunction with the designation ''half and half''.

(d) Products containing less than one-half of 1 percent (.5%) of alcohol by volume shall bear the class designation ''malt beverage,'' or ''cereal beverage,'' or ''near beer.'' If the designation ''near beer'' is used, both words must appear in the same size and style of type, in the same color of ink, and on the same background. No product containing less than one-half of 1 percent of alcohol by volume shall bear the class designations ''beer'', ''lager beer'', ''lager'', ''ale'', ''porter'', or ''stout'', or any other class or type designation commonly applied to malt beverages containing one-half of 1 percent or more of alcohol by volume.

(e) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to ''ale,'' ''porter,'' or ''stout'' and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall bear any of these class designations.

(f) Geographical names for distinctive types of malt beverages (other than names found under paragraph (g) of this section to have become generic) shall not be applied to malt beverages produced in any place other than the particular region indicated by the name unless (1) in direct conjunction with the name there appears the word ''type'' or the word ''American'', or some other statement indicating the true place of production in lettering substantially as conspicuous as such name, and (2) the malt beverages to which the name is applied conform to the type so designated. The following are examples of distinctive types of beer with geographical names that have not become generic; Dortmund, Dortmunder, Vienna, Wein, Weiner, Bavarian, Munich, Munchner, Salvator, Kulmbacher, Wurtzburger, Pilsen (Pilsener and Pilsner): *Provided,* That notwithstanding the foregoing provisions of this section, beer which is produced in the United States may be designated as ''Pilsen,'' ''Pilsener,'' or ''Pilsner'' without further modification, if it conforms to such type.

(g) Only such geographical names for distinctive types of malt beverages as the appropriate TTB officer finds have by usage and common knowledge lost their geographical significance to such an extent that they have become generic shall be deemed to have become generic, e.g., India Pale Ale.

(h) Except as provided in § 7.23(b), geographical names that are not names for distinctive types of malt beverages shall not be applied to malt beverages produced in any place other than the

particular place or region indicated in the name.

[T.D. 6672, 28 FR 9637, Aug. 31, 1963, as amended at 29 FR 3572, Mar. 20, 1964; T.D. ATF–249, 52 FR 5956, Feb. 27, 1987; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF–425, 65 FR 11892, Mar. 7, 2000]

### § 7.25 Name and address.

(a) *Domestic malt beverages.* (1) On labels of containers of domestic malt beverages there shall be stated the name of the bottler or packer and the place where bottled or packed. The bottler's or packer's principal place of business may be shown in lieu of the actual place where bottled or packed if the address shown is a location where bottling or packing operation takes place. The appropriate TTB officer may disapprove the listing of a principal place of business if its use would create a false or misleading impression as to the geographic origin of the beer.

(2) If malt beverages are bottled or packed for a person other than the actual bottler or packer there may be stated in addition to the name and address of the bottler or packer (but not in lieu of), the name and address of such other person immediately preceded by the words ''bottled for,'' ''distributed by,'' or other similar appropriate phrase.

(b) *Imported malt beverages.* On labels of containers of imported malt beverages, there shall be stated the words ''imported by,'' or a singular appropriate phrase, and immediately thereafter the name of the permittee who is the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person. In addition there may, but need not, be stated unless required by State or foreign law or regulation the name and principal place of business of the foreign manufacturer, bottler, packer, or shipper.

(c) *Post-office address.* The ''place'' stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, unless (1) such person is actively engaged in the conduct of an additional bona fide and actual malt beverage business at such additional place or address, and (2) the label also contains, in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular malt beverage.

(Approved by the Office of Management and Budget under control number 1512–0474)

[T.D. 6551, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF–225, 51 FR 8492, Mar. 12, 1986]

### § 7.26 Alcoholic content [suspended as of April 19, 1993; see § 7.71].

(a) The alcoholic content and the percentage and quantity of the original extract shall not be stated unless required by State law. When alcoholic content is required to be stated, but the manner of statement is not specified in the State law, it shall be stated in percentage of alcohol by weight or by volume, and not by proof or by maximums or minimums. Otherwise the manner of statement shall be as specified in the State law.

(b) The terms ''low alcohol'' or ''reduced alcohol'' may be used only on malt beverage products containing less than 2.5 percent alcohol by volume.

(c) The term ''non-alcoholic'' may be used on malt beverage products, provided the statement ''contains less than 0.5 percent (or .5%) alcohol by volume'' appears in direct conjunction with it, in readily legible printing and on a completely contrasting background.

(d) The term ''alcohol-free'' may be used only on malt beverage products containing no alcohol.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF–339, 58 FR 21231, Apr. 19, 1993]

EFFECTIVE DATE NOTE: At 58 FR 21231, Apr. 19, 1993, § 7.26 was suspended indefinitely.

### § 7.27 Net contents.

(a) Net contents shall be stated as follows:

(1) If less than 1 pint, in fluid ounces, or fractions of a pint.

(2) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(3) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof.

(b) All fractions shall be expressed in their lowest denominations.

(c) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

### § 7.28 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all statements required by this subpart are readily legible under ordinary conditions, and all the statements are on a contrasting background.

(b) *Size of type*— (1) *Containers of more than one-half pint.* Except for statements of alcoholic content, all mandatory information required on labels by this part shall be in script, type, or printing not smaller than 2 millimeters. If contained among other descriptive or explanatory information, the script, type, or printing of all mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(2) *Containers of one-half pint or less.* Except for statements of alcoholic content, all mandatory information required on labels by this part shall be in script, type, or printing not smaller than 1 millimeter. If contained among other descriptive or explanatory information, the script, type, or printing of all mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(3) *Alcoholic content statement.* All portions of the alcoholic content statement shall be of the same size and kind of lettering and of equally conspicuous color. Unless otherwise required by State law, the statement of alcoholic content shall be in script, type, or printing:

(i) Not smaller than 1 millimeter for containers of one-half pint or less, or smaller than 2 millimeters for containers larger than one-half pint; or

(ii) Not larger than 3 millimeters for containers of 40 fl. oz. or less, or larger than 4 millimeters for containers larger than 40 fl. oz.

(c) *English language.* All information, other than the brand name, required by this subpart to be stated on labels shall be in the English language. Additional statements in foreign languages may be made, if the statements do not conflict with, or are contradictory to, the requirements of this subpart. Labels on containers of malt beverages bottled or packed for consumption within Puerto Rico may, if desired, state the information required by this subpart solely in the Spanish language, in lieu of the English language, except that the net contents shall also be stated in the English language.

(d) *Labels firmly affixed.* All labels shall be affixed to containers of malt beverages in such manner that they cannot be removed without thorough application of water or other solvents.

(e) *Additional information.* Labels may contain information other than the mandatory label information required by this subpart if the information complies with the requirements of this subpart and does not conflict with, or in any manner qualify, statements required by this part.

[T.D. ATF–66, 45 FR 40552, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–339, 58 FR 21231, Apr. 19, 1993]

### § 7.29 Prohibited practices.

(a) *Statements on labels.* Containers of malt beverages, or any labels on such containers, or any carton, case, or individual covering of such containers, used for sale at retail, or any written, printed, graphic, or other material accompanying such containers to the consumer, must not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or

technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided,* That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, importer, bottler, packer, wholesaler, retailer, or warehouseman, of malt beverages, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation that tends to create a false or misleading impression that the malt beverage contains distilled spirits or is a distilled spirits product. This paragraph does not prohibit the following on malt beverage labels:

(i) A truthful and accurate statement of alcohol content, in conformity with §7.71;

(ii) The use of a brand name of a distilled spirits product as a malt beverage brand name, provided that the overall label does not present a misleading impression about the identity of the product; or

(iii) The use of a cocktail name as a brand name or fanciful name of a malt beverage, provided that the overall label does not present a misleading impression about the identity of the product.

(b) *Simulation of Government stamps.* No label shall be of such design as to resemble or simulate a stamp of the United States Government or of any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the malt beverage contained in the labeled container is brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, Federal, or foreign government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State, or municipal, law or regulation, or is required or specifically authorized by the laws or regulations of the foreign country in which such malt beverages were produced. If the municipal or State government permit number is stated upon a label, it shall not be accompanied by an additional statement relating thereto, unless required by State law.

(c) *Use of word ''bonded'', etc.* The words ''bonded'', ''bottled in bond'', ''aged in bond'', ''bonded age'', ''bottled under customs supervision'', or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing, shall not be used on any label for malt beverages.

(d) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any

statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(e) *Health-related statements*—(1) *Definitions.* When used in this paragraph (e), terms are defined as follows:

(i) *Health-related statement* means any statement related to health (other than the warning statement required by § 16.21 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, malt beverages, or any substance found within the malt beverage, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, malt beverages, or any substance found within the malt beverage, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the malt beverage, as well as statements and claims of nutritional value (*e.g.,* statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the malt beverage, alcohol, or any substance found within the malt beverage, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between malt beverages, alcohol, or any substance found within the malt beverage, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption.

(2) *Rules for labeling*—(i) *Health-related statements.* In general, labels may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(ii) *Specific health claims.* (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a malt beverage label. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on a malt beverage label.

(B) TTB will approve the use of a specific health claim on a malt beverage label only if the claim is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of malt beverage or alcohol consumption; and

(B)(*1*) Includes as part of the health-related directional statement the following disclaimer: ''This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;'' or

(*2*) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(f) *Use of words ''strong,'' ''full strength,'' and similar words.* Labels shall not contain the words ''strong,'' ''full strength,'' ''extra strength,'' ''high test,'' ''high proof,'' ''pre-war strength,'' ''full oldtime alcoholic strength,'' or similar words or statements, likely to be considered as statements of alcoholic content, unless required by State law. This does not preclude use of the terms ''low alcohol,'' ''reduced alcohol,'' ''non-alcoholic,'' and ''alcohol-free,'' in accordance with §7.71 (d), (e), and (f), nor does it preclude labeling with the alcohol content in accordance with §7.71.

(g) *Use of numerals.* Labels shall not contain any statements, designs, or devices, whether in the form of numerals, letters, characters, figures, or otherwise, which are likely to be considered as statements of alcoholic content, unless required by State law, or as permitted by §7.71.

(h) *Coverings, cartons, or cases.* Individual coverings, cartons, cases, or other wrappers of containers of malt beverages, used for sale at retail, or any written, printed, graphic, or other matter accompanying the container shall not contain any statement or any graphic pictorial, or emblematic representation, or other matter, which is prohibited from appearing on any label or container of malt beverages.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF–66, 45 FR 40552, June 13, 1980; T.D. ATF–180, 49 FR 31674, Aug. 8, 1984; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF–339, 58 FR 21232, Apr. 19, 1993; TTB T.D.–1, 68 FR 10105, Mar. 3, 2003; TTB T.D.–21, 70 FR 234, Jan. 3, 2005]

## Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

### §7.30 Application.

Sections 7.30 and 7.31 shall apply to withdrawals of malt beverages from customs custody only in the event that the laws or regulations of the State in which such malt beverages are withdrawn for consumption require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of §§7.20 through 7.29.

### §7.31 Label approval and release.

(a) *Certificate of label approval.* No imported malt beverages in containers shall be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, TTB Form 5100.31.

(b) *Release.* If the original or photostatic copy of TTB Form 5100.31 has been approved, the brand or lot of imported malt beverages bearing labels identical with those shown thereon may be released from U.S. Customs custody.

(c) *Relabeling.* Imported malt beverages in U.S. Customs custody which are not labeled in conformity with certificates of label approval issued by the appropriate TTB officer must be relabeled, prior to release, under the supervision and direction of the U.S. Customs officers of the port at which the malt beverages are located.

(d) *Formula and samples.* The appropriate TTB officer may require an importer to submit a formula for a malt beverage, or a sample of any malt beverage or ingredients used in producing a malt beverage, prior to or in conjunction with the filing of a certificate of label approval on TTB Form 5100.31.

(e) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–66, 45 FR 40552, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55097, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–359, 59 FR 42160, Aug. 17, 1994; T.D. ATF–406, 64 FR 2129, Jan. 13, 1999; TTB T.D.–21, 70 FR 235, Jan. 3, 2005]

## Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

### § 7.40 Application.

Sections 7.40 through 7.42 shall apply only to persons bottling or packing malt beverages (other than malt beverages in customs custody) for shipment, or delivery for sale or shipment, into a State, the laws or regulations of which require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of §§ 7.20 through 7.29.

### § 7.41 Certificates of label approval.

(a) *Requirement.* No person may bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed unless an approved certificate of label approval, TTB Form 5100.31, is issued.

(b) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–425, 65 FR 11892, Mar. 7, 2000]

### § 7.42 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval shall, upon demand exhibit such certificate to a duly authorized representative of the United States Government or any duly authorized representative of a State or political subdivision thereof.

## Subpart F—Advertising of Malt Beverages

### § 7.50 Application.

No person engaged in business as a brewer, wholesaler, or importer, of malt beverages directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio or television broadcast, or in any newspaper, periodical, or any publication, by any sign or outdoor advertisement, or in any other printed or graphic matter, any advertisement of malt beverages, if such advertising is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 7.50–7.55 of this part. Provided, that such sections shall not apply to outdoor advertising in place on (effective date of this Treasury decision), but shall apply upon replacement, restoration, or renovation of any such advertising; and provided further, that §§ 7.50–7.55 of this part shall apply to advertisements of malt beverages intended to be sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the laws of such State impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in such State. And provided further that such sections shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television broadcast, unless such retailer or publisher or radio or television broadcaster is engaged in business as a brewer, wholesaler, bottler, or importer of malt beverages, directly or indirectly, or through an affiliate.

[T.D. ATF–180, 49 FR 31675, Aug. 8, 1984]

### § 7.51 Definitions.

As used in §§ 7.50 through 7.55 of this part, the term ''advertisement'' includes any written or verbal statement, illustration, or depiction which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade

booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or in any written, printed, graphic, or other matter accompanying the container, representations made on cases, or in any billboard, sign, or other outdoor advertisement, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any container of malt beverages; or any coverings, cartons, or cases of containers of malt beverages used for sale at retail which constitute a part of the labeling under §§ 7.20 through 7.29 of this part.

(b) Any editorial or other reading material (*i.e.*, news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any brewer, and which is not written by or at the direction of the brewer.

[T.D. ATF–180, 49 FR 31675, Aug. 8, 1984]

### § 7.52 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the brewer, bottler, packer, wholesaler, or importer responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class.* The advertisement shall contain a conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required to appear on the label of the product.

(c) *Exception.* (1) If an advertisement refers to a general malt beverage line or all of the malt beverage products of one company, whether by the company name or by the brand name common to all the malt beverages in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of malt beverage is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF–180, 49 FR 31675, Aug. 8, 1984]

### § 7.53 Legibility of mandatory information.

(a) Statements required under §§ 7.50 through 7.55 of this part that appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(d) Mandatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audiovisual media that it will be readily apparent to the persons viewing the advertisement.

[T.D. ATF–180, 49 FR 31675, Aug. 8, 1984]

### § 7.54 Prohibited statements.

(a) *General prohibition.* An advertisement of malt beverages must not contain:

(1) Any statement that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of

falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) Any statement that the malt beverages are brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulation; and if a municipal or State permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) The words ''bonded'', ''bottled in bond'', ''aged in bond'', ''bonded age'', ''bottled under customs supervision'', or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing.

(8) Any statement, design, device, or representation that tends to create a false or misleading impression that the malt beverage contains distilled spirits or is a distilled spirits product. This paragraph does not prohibit the following in advertisements for malt beverages:

(i) A truthful and accurate statement of alcohol content, in conformity with § 7.71;

(ii) The use of a brand name of a distilled spirits product as a malt beverage brand name, provided that the overall advertisement does not present a misleading impression about the identity of the product; or

(iii) The use of a cocktail name as a brand name or fanciful name of a malt beverage, provided that the overall advertisement does not present a misleading impression about the identity of the product.

(b) *Statements inconsistent with labeling.* (1) Advertisements shall not contain any statement concerning a brand or lot of malt beverages that is inconsistent with any statement on the labeling thereof.

(2) Any label depicted on a bottle in an advertisement shall be a reproduction of an approved label.

(c) *Alcoholic content.* (1) Advertisements shall not contain the words ''strong,'' ''full strength,'' ''extra strength,'' ''high test,'' ''high proof,'' ''full alcohol strength,'' or any other statement of alcoholic content, or any statement of the percentage and quantity of the original extract, or any numerals, letters, characters, figures, or similar words or statements, likely to be considered as statements of alcoholic content, unless required by State law. This does not preclude use of the terms ''low alcohol,'' ''reduced alcohol,'' ''non-alcoholic,'' and ''alcohol-free,'' as used on labels, in accordance with § 7.71 (d), (e), and (f).

(2) An approved malt beverage label which bears a statement of alcoholic content permitted under § 7.71 may be depicted in any advertising media. The statement of alcoholic content on the label may not appear more prominently in the advertisement than it does on the approved label.

(3) An actual malt beverage bottle showing the approved label bearing a statement of alcoholic content permitted under § 7.71 may be displayed in any advertising media.

(d) *Class.* (1) No product containing less than one-half of 1 per centum of alcohol by volume shall be designated in any advertisement as ''beer'', ''lager beer'', ''lager'', ''ale'', ''porter'', or ''stout'', or by any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 per centum or more of alcohol by volume.

(2) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to ''ale,'' ''porter,'' or ''stout'' and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations.

(e) *Health-related statements*—(1) *Definitions.* When used in this paragraph (e), terms are defined as follows:

(i) *Health-related statement* means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol,

malt beverages, or any substance found within the malt beverage, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, malt beverages, or any substance found within the malt beverage, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the malt beverage, as well as statements and claims of nutritional value (*e.g.*, statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the malt beverage, alcohol, or any substance found within the malt beverage, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between malt beverages, alcohol, or any substance found within the malt beverage, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption.

(2) *Rules for advertising*—(i) *Health-related statements.* In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) *Specific health claims.* A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of malt beverage or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of malt beverage or alcohol consumption; and

(B)(*1*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: ''This statement should not encourage you to drink or increase your alcohol consumption for health reasons;'' or

(*2*) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(f) *Confusion of brands.* Two or more different brands or lots of malt beverages shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or a newspaper or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply

to the other or others, and if as to such latter the representations contravene any provision of §§ 7.50 through 7.54 or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. ''Subliminal or similar techniques,'' as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF–180, 49 FR 31675, Aug. 8, 1984; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF–339, 58 FR 21232, Apr. 19, 1993; TTB T.D.–1, 68 FR 10106, Mar. 3, 2003; TTB T.D.–21, 70 FR 235, Jan. 3, 2005]

### § 7.55 Comparative advertising.

(a) *General.* Comparative advertising shall not be disparaging of a competitor's product.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the *Manual on Sensory Testing Methods,* ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68–15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

[T.D. ATF–180, 49 FR 31676, Aug. 8, 1984]

## Subpart G—General Provisions

### § 7.60 Exports.

This part shall not apply to malt beverages exported in bond.

## Subpart H—Interim Regulations for Alcoholic Content Statements

### § 7.71 Alcoholic content.

(a) *General.* Alcoholic content and the percentage and quantity of the original gravity or extract may be stated on a label unless prohibited by State law. When alcoholic content is stated, and the manner of statement is not required under State law, it shall be stated as prescribed in paragraph (b) of this section.

(b) *Form of statement.* (1) Statement of alcoholic content shall be expressed in percent alcohol by volume, and not by percent by weight, proof, or by maximums or minimums.

(2) For malt beverages containing 0.5 percent or more alcohol by volume, statements of alcoholic content shall be expressed to the nearest one-tenth of a percent, subject to the tolerance permitted by paragraph (c) (1) and (2) of this section. For malt beverages containing less than 0.5 percent alcohol by volume, alcoholic content may be expressed in one-hundredths of a percent, subject to the tolerance permitted in paragraph (c)(3) of this section.

(3) Alcoholic content shall be expressed in the following fashion: ''alcohol—percent by volume,'' ''alcohol by volume—percent,'' ''—percent alcohol by volume,'' or ''—percent alcohol/volume.'' The abbreviations ''alc'' and ''vol'' may be used in lieu of the words ''alcohol'' and ''volume,'' and the symbol ''%'' may be used in lieu of the word ''percent.''

(c) *Tolerances.* (1) For malt beverages containing 0.5 percent or more alcohol by volume, a tolerance of 0.3 percent

will be permitted, either above or below the stated percentage of alcohol. Any malt beverage which is labeled as containing 0.5 percent or more alcohol by volume may not contain less than 0.5 percent alcohol by volume, regardless of any tolerance.

(2) For malt beverages which are labeled as ''low alcohol'' or ''reduced alcohol'' under paragraph (d) of this section, the actual alcoholic content may not equal or exceed 2.5 percent alcohol by volume, regardless of any tolerance permitted by paragraph (c)(1) of this section.

(3) For malt beverages containing less than 0.5 percent alcohol by volume, the actual alcoholic content may not exceed the labeled alcoholic content. A malt beverage may not be labeled with an alcoholic content of 0.0 percent alcohol by volume unless it is also labeled as ''alcohol free'' and contains no alcohol.

(d) *Low alcohol and reduced alcohol.* The terms ''low alcohol'' or ''reduced alcohol'' may be used only on malt beverages containing less than 2.5 percent alcohol by volume.

(e) *Non-alcoholic.* The term ''non-alcoholic'' may be used on malt beverages, provided the statement ''contains less than 0.5 percent (or .5%) alcohol by volume'' appears in direct conjunction with it, in readily legible printing and on a completely contrasting background.

(f) *Alcohol free.* The term ''alcohol free'' may be used only on malt beverages containing no alcohol.

[T.D. ATF–339, 58 FR 21232, Apr. 19, 1993]

## Subpart I—Use of the Term ''Organic''

### §7.81 Use of the term "organic."

(a) Use of the term ''organic'' is optional and is treated as ''additional information on labels'' under §7.28(e).

(b) Any use of the term ''organic'' on a malt beverage label or in advertising of malt beverages must comply with the United States Department of Agriculture's (USDA) National Organic Program rules (7 CFR part 205) as interpreted by the USDA.

(c) This section applies to labels and advertising that use the term ''organic'' on and after October 21, 2002.

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002]

# PART 8—EXCLUSIVE OUTLETS

## Subpart A—Scope of Regulations

Sec.
8.1 General.
8.2 Territorial extent.
8.3 Application.
8.4 Jurisdictional limits.
8.5 Delegations of the Administrator.
8.6 Administrative provisions.

## Subpart B—Definitions

8.11 Meaning of terms.

## Subpart C—Prohibited Practices

8.21 General.
8.22 Contracts to purchase distilled spirits, wine, or malt beverages.
8.23 Third party arrangements.

## Subpart D—Exclusion

8.51 Exclusion, in general.
8.52 Practices which result in exclusion.
8.53 Practice not resulting in exclusion.
8.54 Criteria for determining retailer independence.

AUTHORITY: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

SOURCE: T.D. ATF–74, 45 FR 63256, Sept. 23, 1980, unless otherwise noted.

## Subpart A—Scope of Regulations

### §8.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify arrangements which are exclusive outlets under section 105(a) of the Act and criteria for determining whether a practice is a violation of section 105(a) of the Act. This part does not attempt to enumerate all of the practices prohibited by section 105(a) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

[T.D. ATF–364, 60 FR 20425, Apr. 26, 1995]

### § 8.2 Territorial extent.

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

### § 8.3 Application.

(a) *General.* This part applies only to transactions between industry members and retailers. It does not apply to transactions between two industry members; for example, between a producer and a wholesaler.

(b) *Transactions involving State agencies.* The regulations in this part apply only to transactions between industry members and State agencies operating as retailers as defined in this part. The regulations do not apply to State agencies with regard to their wholesale dealings with retailers.

### § 8.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member requires, by agreement or otherwise, a retailer to purchase distilled spirits, wine, or malt beverages from such industry member to the exclusion in whole or in part of products sold or offered for sale by other persons in interstate or foreign commerce; and

(2) If: (i) The requirement is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in the practice of using a requirement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the requirement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(a) of the Federal Alcohol Administration Act (27 U.S.C. 205(a)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

### § 8.5 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.8, Delegation of the Administrator's Authorities in 27 CFR Part 8, Exclusive Outlets. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16923, Apr. 4, 2006]

### § 8.6 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Administrator under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Administrator under this Act. The Act also provides that the Administrator is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and subpoena.* Any appropriate TTB officer shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. An appropriate TTB officer shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the appropriate TTB officer*—(1) *General.* The appropriate TTB officer may, as part of a trade practice investigation of an industry member, require such industry

member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the appropriate TTB officer. The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0392)

[T.D. ATF–364, 60 FR 20425, Apr. 26, 1995. Redesignated and amended by T.D. ATF–428, 65 FR 52020, Aug. 28, 2000]

## Subpart B—Definitions

### §8.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.8, Delegation of the Administrator's Authorities in 27 CFR Part 8, Exclusive Outlets.

*Industry member.* Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits; industry member does not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

*Product.* Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

*Retailer.* Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. A wholesaler who makes incidental retail sales representing less than five percent of the wholesaler's total sales volume for the preceding two-month period shall not be considered a retailer with respect to such incidental sales.

T.D. ATF–74, 45 FR 63256, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20425, Apr. 26, 1995; T.D. ATF–428, 65 FR 52020, Aug. 28, 2000; T.D. TTB–44, 71 FR 16923, Apr. 4, 2006]

## Subpart C—Prohibited Practices

### §8.21 General.

It is unlawful for an industry member to require, by agreement or otherwise, that any retailer purchase distilled spirits, wine, or malt beverages from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other persons in interstate or foreign commerce. This prohibition includes purchases coerced by industry members, through acts or threats of physical or economic harm, as well as voluntary industry member-retailer purchase agreements.

### §8.22 Contracts to purchase distilled spirits, wine, or malt beverages.

Any contract or agreement, written or unwritten, which has the effect of requiring the retailer to purchase distilled spirits, wine, or malt beverages from the industry member beyond a single sales transaction is prohibited. Examples of such contracts are:

(a) An advertising contract between an industry member and a retailer with the express or implied requirement of the purchase of the advertiser's products; or

(b) A sales contract awarded on a competitive bid basis which has the effect of prohibiting the retailer from purchasing from other industry members by:

(1) Requiring that for the period of the agreement, the retailer purchase a product or line of products exclusively from the industry member; or

(2) Requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

### § 8.23 Third party arrangements.

Industry member requirements, by agreement or otherwise, with non-retailers which result in a retailer being required to purchase the industry member's products are within the exclusive outlet provisions. These industry member requirements are covered whether the agreement or other arrangement originates with the industry member or the third party. For example, a supplier enters into a contractual agreement or other arrangement with a third party. This agreement or arrangement contains an industry member requirement as described above. The third party, a ballclub, or municipal or private corporation, not acting as a retailer, leases the concession rights and is able to control the purchasing decisions of the retailer. The third party, as a result of the requirement, by agreement or otherwise, with the industry member, requires the retailer to purchase the industry member's products to the exclusion, in whole or in part, of products sold or offered for sale by other persons in interstate or foreign commerce. The business arrangements entered into by the industry member and the third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value.

[T.D. ATF–364, 60 FR 20425, Apr. 26, 1995]

## Subpart D—Exclusion

SOURCE: T.D. ATF–364, 60 FR 20425, Apr. 26, 1995, unless otherwise noted.

### § 8.51 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer, and

(2) Such practice results in the retailer purchasing less than it would have of a competitor's product.

(b) Section 8.52 lists practices that result in exclusion. Section 8.53 lists practices not resulting in exclusion. Section 8.54 lists the criteria used for determining whether other practices can put retailer independence at risk.

### § 8.52 Practices which result in exclusion.

The practices specified in this section result in exclusion under section 105(a) of the Act. The practices specified here are examples and do not constitute a complete list of such practices:

(a) Purchases of distilled spirits, wine or malt beverages by a retailer as a result, directly or indirectly, of a threat or act of physical or economic harm by the selling industry member.

(b) Contracts between an industry member and a retailer which require the retailer to purchase distilled spirits, wine, or malt beverages from that industry member and expressly restrict the retailer from purchasing, in whole or in part, such products from another industry member.

### § 8.53 Practice not resulting in exclusion.

The practice specified in this section is deemed not to result in exclusion under section 105(a) of the Act: a supply contract for one year or less between the industry member and retailer under which the industry member agrees to sell distilled spirits, wine, or malt beverages to the retailer on an ''as needed'' basis provided that the retailer is not required to purchase any minimum quantity of such product.

### § 8.54 Criteria for determining retailer independence.

The criteria specified in this section are indications that a particular practice, other than those in §§ 8.52 and 8.53, places retailer independence at risk. A practice need not meet all of the criteria specified in this section in order to place retailer independence at risk.

(a) The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase

or the quantity in which to purchase them for sale to consumers.

(b) The industry member obligates the retailer to participate in the promotion to obtain the industry member's product.

(c) The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

(f) The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

# PART 9—AMERICAN VITICULTURAL AREAS

## Subpart A—General Provisions

Sec.
9.1 Scope.
9.2 Territorial extent.
9.3 Relation to parts 4 and 70 of this chapter.

## Subpart B—Definitions

9.11 Meaning of terms.

## Subpart C—Approved American Viticultural Areas

9.21 General.
9.22 Augusta.
9.23 Napa Valley.
9.24 Chalone.
9.25 San Pasqual Valley.
9.26 Guenoc Valley.
9.27 Lime Kiln Valley.
9.28 Santa Maria Valley.
9.29 Sonoma Valley.
9.30 North Coast.
9.31 Santa Cruz Mountains.
9.32 Los Carneros.
9.33 Fennville.
9.34 Finger Lakes.
9.35 Edna Valley.
9.36 McDowell Valley.
9.37 California Shenandoah Valley.
9.38 Cienega Valley.
9.39 Paicines.
9.40 Leelanau Peninsula.
9.41 Lancaster Valley.
9.42 Cole Ranch.
9.43 Rocky Knob.
9.44 Solano County Green Valley.
9.45 Suisun Valley.
9.46 Livermore Valley.
9.47 Hudson River Region.
9.48 Monticello.
9.49 Central Delaware Valley.
9.50 Temecula Valley.
9.51 Isle St. George.
9.52 Chalk Hill.
9.53 Alexander Valley.
9.54 Santa Ynez Valley.
9.55 Bell Mountain.
9.56 San Lucas.
9.57 Green Valley of Russian River Valley.
9.58 Carmel Valley.
9.59 Arroyo Seco.
9.60 Shenandoah Valley.
9.61 El Dorado.
9.62 Loramie Creek.
9.63 Linganore.
9.64 Dry Creek Valley.
9.65 North Fork of Roanoke.
9.66 Russian River Valley.
9.67 Catoctin.
9.68 Merritt Island.
9.69 Yakima Valley.
9.70 Northern Sonoma.
9.71 Hermann.
9.72 Southeastern New England.
9.73 Martha's Vineyard.
9.74 Columbia Valley.
9.75 Central Coast.
9.76 Knights Valley.
9.77 Altus.
9.78 Ohio River Valley.
9.79 Lake Michigan Shore.
9.80 York Mountain.
9.81 Fiddletown.
9.82 Potter Valley.
9.83 Lake Erie.
9.84 Paso Robles.
9.85 Willow Creek.
9.86 Anderson Valley.
9.87 Grand River Valley.
9.88 Pacheco Pass.
9.89 Umpqua Valley.
9.90 Willamette Valley.
9.91 Walla Walla Valley.
9.92 Madera.
9.93 Mendocino.
9.94 Howell Mountain.
9.95 Clarksburg.
9.96 Mississippi Delta.
9.97 Sonoita.
9.98 Monterey.
9.99 Clear Lake.
9.100 Mesilla Valley.
9.101 The Hamptons, Long Island.
9.102 Sonoma Mountain.
9.103 Mimbres Valley.
9.104 South Coast.

9.105 Cumberland Valley.
9.106 North Yuba.
9.107 Lodi.
9.108 Ozark Mountain.
9.109 Northern Neck George Washington Birthplace.
9.110 San Benito.
9.111 Kanawha River Valley.
9.112 Arkansas Mountain.
9.113 North Fork of Long Island.
9.114 Old Mission Peninsula.
9.115 Ozark Highlands.
9.116 Sonoma Coast.
9.117 Stags Leap District.
9.118 Ben Lomond Mountain.
9.119 Middle Rio Grande Valley.
9.120 Sierra Foothills.
9.121 Warren Hills.
9.122 Western Connecticut Highlands.
9.123 Mt. Veeder.
9.124 Wild Horse Valley.
9.125 Fredericksburg in the Texas Hill Country.
9.126 Santa Clara Valley.
9.127 Cayuga Lake.
9.128 Seneca Lake.
9.129 Arroyo Grande Valley.
9.130 San Ysidro District.
9.131 Mt. Harlan.
9.132 Rogue Valley.
9.133 Rutherford.
9.134 Oakville.
9.135 Virginia's Eastern Shore.
9.136 Texas Hill Country.
9.137 Grand Valley.
9.138 Benmore Valley.
9.139 Santa Lucia Highlands.
9.140 Atlas Peak.
9.141 Escondido Valley.
9.142 Bennett Valley.
9.143 Spring Mountain District.
9.144 Texas High Plains.
9.145 Dunnigan Hills.
9.146 Lake Wisconsin.
9.147 Hames Valley.
9.148 Seiad Valley.
9.149 St. Helena.
9.150 Cucamonga Valley.
9.151 Puget Sound.
9.152 Malibu-Newton Canyon.
9.153 Redwood Valley.
9.154 Chiles Valley.
9.155 Texas Davis Mountains.
9.156 Diablo Grande.
9.157 San Francisco Bay.
9.158 Mendocino Ridge.
9.159 Yorkville Highlands.
9.160 Yountville.
9.161 Oak Knoll District of Napa Valley.
9.162 Sta. Rita Hills.
9.163 Salado Creek.
9.164 River Junction.
9.165 Applegate Valley.
9.166 Diamond Mountain District.
9.167 Red Mountain.
9.168 Fair Play.
9.169 Red Hills Lake County.
9.170 Long Island.
9.171 San Bernabe.
9.172 West Elks.
9.173 Rockpile.
9.174 Yadkin Valley.
9.175 Dos Rios.
9.176 Capay Valley.
9.177 Alexandria Lakes.
9.178 Columbia Gorge.
9.179 Southern Oregon.
9.180 Dundee Hills.
9.181 McMinnville.
9.182 Ribbon Ridge.
9.183 Yamhill-Carlton District.
9.184 Trinity Lakes.
9.185 Texoma.
9.186 Niagara Escarpment.
9.187 Covelo.
9.188 Horse Heaven Hills.
9.189 High Valley.
9.190 Red Hill Douglas County, Oregon.
9.191 Ramona Valley.
9.192 Wahluke Slope.
9.193 Rattlesnake Hills.
9.194 San Antonio Valley.
9.195 Alta Mesa.
9.196 Borden Ranch.
9.197 Clements Hills.
9.198 Cosumnes River.
9.199 Jahant.
9.200 Mokelumne River.
9.201 Sloughhouse.
9.202 Eola-Amity Hills.
9.203 Saddle Rock-Malibu.
9.204 Tracy Hills.
9.205 Chehalem Mountains.
9.206 Shawnee Hills.
9.207 Outer Coastal Plain.
9.208 Snake River Valley.
9.210 Lehigh Valley.

AUTHORITY: 27 U.S.C. 205.

SOURCE: T.D. ATF–60, 44 FR 56692, Oct. 2, 1979, unless otherwise noted.

## Subpart A—General Provisions

### § 9.1 Scope.

The regulations in this part relate to American viticultural areas.

### § 9.2 Territorial extent.

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

### § 9.3 Relation to parts 4 and 70 of this chapter.

(a) *Procedure.* In accordance with §§ 4.25a(e)(2) and 70.701(c) of this chapter, the Administrator shall receive petitions to establish American viticultural areas and shall use the informal rulemaking process, under 5

U.S.C. 553, in establishing viticultural areas in this part.

(b) *Information to establish an American viticultural area.* A petition, made in writing, shall contain the following information:

(1) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application;

(2) Historical or current evidence that the boundaries of the viticultural area are as specified in the application;

(3) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(4) The specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(5) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked. (For U.S.G.S. maps, write the U.S. Geological Survey, Branch of Distribution, Box 25286, Federal Center, Denver, Colorado 80225. If the map name is not known, request a map index by State.)

[T.D. ATF–60, 44 FR 56692, Oct. 2, 1979, as amended by T.D. ATF–92, 46 FR 46913, Sept. 23, 1981; T.D. ATF –355, 59 FR 14553, Mar. 29, 1994; T.D. ATF–432, 65 FR 69253, Nov. 16, 2000]

## Subpart B—Definitions

### §9.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this section.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*American.* Of or relating to the several States, the District of Columbia, and Puerto Rico; ''State'' includes the District of Columbia and Puerto Rico.

*Approved map.* The map used to define the boundaries of an approved viticultural area.

*Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

*U.S.G.S.* The United States Geological Survey.

*Viticultural area.* A delimited, grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of this part.

[T.D. ATF–60, 44 FR 56692, Oct. 2, 1979, as amended by T.D. TTB–44, 71 FR 16923, Apr. 4, 2006]

## Subpart C—Approved American Viticultural Areas

### §9.21 General.

The viticultural areas listed in this subpart are approved for use as appellations of origin in accordance with part 4 of this chapter.

### §9.22 Augusta.

(a) *Name.* The name of the viticultural area described in this section is ''Augusta.''

(b) *Approved maps.* The approved maps for the Augusta viticultural area are two U.S.G.S. maps. They are titled:

(1) ''Washington East, Missouri'', 7.5 minute quadrangle; and

(2) ''Labadie, Missouri'', 7.5 minute quadrangle.

(c) *Boundaries.* The boundaries of the Augusta viticultural area are located in the State of Missouri and are as follows:

(1) The beginning point of the boundary is the intersection of the St. Charles County line, the Warren County line and the Franklin County line.

(2) The western boundary is the St. Charles County-Warren County line from the beginning point to the township line identified on the approved maps as ''T45N/T44N.''

(3) The northern boundary is the township line ''T45N/T44N'' from the St. Charles County-Warren County line to the range line identified on the approved maps as ''R1E/R2E.''

(4) The eastern boundary is the range line ''R1E/R2E'' from township line ''T45N/T44N'' extended to the St. Charles County-Franklin County line.

(5) The southern boundary is the St. Charles County-Franklin County line

from the extension of range line ''R1E/R2E'' to the beginning point.

[T.D. ATF–72, 45 FR 41633, June 20, 1980]

### § 9.23 Napa Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Napa Valley.''

(b) *Approved maps.* The maps showing the boundaries of the Napa Valley viticultural area are the:

(1) ''Mt. St. Helena'' U.S.G.S. 7.5 minute quadrangle;

(2) ''Detert Reservoir'' U.S.G.S. 7.5 minute quadrangle;

(3) ''St. Helena'' U.S.G.S. 15 minute quadrangle;

(4) ''Jericho Valley'' U.S.G.S. 7.5 minute quadrangle;

(5) ''Lake Berryessa'' U.S.G.S. 15 minute quadrangle;

(6) ''Mt. Vaca'' U.S.G.S. 15 minute quadrangle;

(7) ''Cordelia'' U.S.G.S. 7.5 minute quadrangle;

(8) ''Cuttings Wharf'' U.S.G.S. 7.5 minute quadrangle; and

(9) Appropriate Napa County tax assessor's maps showing the Napa County-Sonoma County line.

(c) *Boundaries.* The Napa Valley viticultural area is located within Napa County, California. From the beginning point at the conjuction of the Napa County-Sonoma County line and the Napa County-Lake County line, the boundary runs along—

(1) The Napa County-Lake County line;

(2) Putah Creek and the western and southern shores of Lake Berryessa;

(3) The Napa County-Solano County line; and

(4) The Napa County-Sonoma County line to the beginning point.

[T.D. ATF–79, 46 FR 9063, Jan. 28, 1981, as amended by T.D. ATF–201, 50 FR 12533, Mar. 29, 1985]

### § 9.24 Chalone.

(a) *Name* The name of the viticultural area described in this section is ''Chalone.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Chalone viticultural area are four U.S.G.S. 7.5 minute quadrangle maps. They are titled:

(1) ''Mount Johnson, California, 1968'';

(2) ''Bickmore Canyon, California, 1968'';

(3) ''Soledad, California, 1955''; and

(4) ''North Chalone Peak, California, 1969.''

(c) *Boundaries.* The Chalone viticultural area includes 8640 acres, primarily located in Monterey County, California, with small portions in the north and east located in San Benito County, California. The boundaries of the Chalone viticultural area encompass:

(1) Sections 35 and 36, in their entirety, of T.16 S., R.6.E.;

(2) Sections 1, 2 and 12, in their entirety, of T.17 S., R.6 E.;

(3) Sections 6, 7, 8, 9, 16, and 17, in their entirety, the western half of Section 5, and the eastern half of Section 18 of T.17 S., R.7 E.; and

(4) Section 31, in its entirety, and the western half of Section 32 of T.16 S., R.7 E.

[T.D. ATF–107, 47 FR 25519, June 14, 1982]

### § 9.25 San Pasqual Valley.

(a) *Name.* The name of the viticultural area described in this section is ''San Pasqual Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries are three U.S.G.S. maps. They are entitled:

(1) ''Escondido Quadrangle, California—San Diego County'', 7.5 minute series;

(2) ''San Pasqual Quadrangle, California—San Diego County'', 7.5 minute series;

(3) ''Valley Center Quadrangle, California—San Diego County'', 7.5 minute series.

(c) *Boundaries.* The San Pasqual Valley viticultural area is located in San Diego County, California.

(1) From the beginning point at the intersection of Interstate 15 and the 500-foot contour line, north of the intersection of point of Interstate 15 and T.12 S./T.13 S., the boundary line follows the 500-foot contour line to;

(2) The point nearest San Pasqual Road and the 500-foot contour line, the boundary line follows the Escondido Corporate Boundary line to the 500–foot contour line on the hillock and

circumnavigates said hillock back to the Escondido Corporate Boundary line and returns to the 500-foot contour line nearest to San Pasqual Road and;

(3) Continues along the 500-foot contour line completely around San Pasqual Valley to a point where the 500-foot contour line intersects with Pomerado Road, at this point, the boundary line, in a straight, northwesterly direction crosses over to;

(4) The 500-foot contour line of Battle Mountain, following the 500-foot contour line around Battle Mountain to point nearest to Interstate 15, at which point the boundary line crosses over to Interstate 15; and

(5) Continues northward along Interstate 15 to the point of beginning.

[T.D. ATF–92, 46 FR 41493, Sept. 23, 1981]

### §9.26 Guenoc Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Guenoc Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Guenoc Valley viticultural area are four USGS maps. They are titled:

(1) ''Middletown Quadrangle, California-Lake Co.,'' 7.5 minute series;

(2) ''Jericho Valley Quadrangle, California,'' 7.5 minute series;

(3) ''Detert Reservoir Quadrangle, California,'' 7.5 minute series; and

(4) ''Aetna Springs Quadrangle, California,'' 7.5 minute series.

(c) *Boundaries.* The Guenoc Valley viticultural area is located within Lake County, California. The beginning point of the boundary is Station 20 of Denton's Survey of Guenoc Rancho, presently marked by a 1½ inch galvanized pipe located atop Jim Davis Peak. On the approved maps, Jim Davis Peak is the unnamed peak (elevation 1,455 feet) located on the western boundary of Section 35, Township 11 North, Range 6 West. From this beginning point the boundary runs:

(1) South 07°49′34″ East, 9,822.57 feet to the USGS triangulation station ''Guenoc;''

(2) Then, South 29°14′31″ West, 10,325.08 feet;

(3) Then, South 00°00′ West, 2,100.00 feet;

(4) Then, North 90°00′ West, 4,150.00 feet;

(5) Then, North 24°23′11″ West, 16,469.36 feet;

(6) Then, North 75°47′20″ East, 7,943.08 feet; and

(7) Then, North 60°47′00″ East, 7,970.24 feet to the beginning point.

[T.D. ATF–95, 46 FR 56786, Nov. 19, 1981]

### §9.27 Lime Kiln Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Lime Kiln Valley.''

(b) *Approved Map.* The appropriate map for determining the boundaries of the Lime Kiln Valley Viticultural area is: ''Paicines Quadrangle, California,'' 1968, 7.5 minute series.

(c) *Boundaries.* The Lime Kiln Valley viticultural area is located in San Benito County, California. From the beginning point at the intersection of Thompson Creek and Cienega Road, the boundary proceeds, in a straight line to the summit of an unnamed peak (1,288 feet) in the northwest quarter of Section 28, T.14 S./R.6 E.;

(1) Thence in a straight line from the summit of the unnamed peak (1,288 feet) to a point where it intersects the 1,400-foot contour line, by the elevation marker, in the southwest quarter of T.14 S./R.6 E, Section 28;

(2) Thence following the 1,400-foot contour line through the following sections; Sections 28, 29, and 30, T.14 S./R.6 E.; Section 25, T.14 S./R.5 E.; Sections 30, 19, 20, and returning to 19, T.14 S./R.6 E., to a point where the 1,400-foot contour line intersects with the section line between Sections 19 and 18, T.14 S./R.6 E.;

(3) Thence in a straight line to the Cienega School Building along Cienega Road;

(4) Thence along Cienega Road to the point of beginning.

[T.D. ATF–106, 47 FR 24296, June 4, 1982, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### §9.28 Santa Maria Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Santa Maria Valley.''

(b) *Approved maps.* The approved maps for the Santa Maria Valley are two U.S.G.S. maps entitled:

(1) ''Santa Maria'', N.I. 10–6, 9, series V 502, scale 1: 250,000; and

(2) ''San Luis Obispo'', N.I. 10–3, series V 502, scale 1: 250,000.

(c) *Boundaries.* The boundaries of the Santa Maria Valley viticultural area are located in portions of Santa Barbara and San Luis Obispo Counties, California, and are as follows:

(1) Beginning at a point east of Orcutt where Highway U.S. 101 and the unnamed road (known locally as Clark Road) intersects; Thence northerly along U.S. 101 to a point where it intersects with Highway 166;

(2) Thence along Highway 166 in a general easterly direction to a point where Highway 166 intersects with the section line at the southwest section of Chimney Canyon;

(3) Thence in a straight, southerly, line to the summit of Los Coches Mountain (3016 feet);

(4) Thence in a straight, southeasterly, line to the summit of Bone Mountain (2822 feet);

(5) Thence in a straight, south-southwesterly, line to the intersection of two unnamed roads (known locally as Alisos Canyon Road and Foxen Canyon Road) in Foxen Canyon at the elevation marker of 1116 feet;

(6) Thence along the unnamed road (known locally as Foxen Canyon Road) in a northwesterly direction to the community of Sisquoc; and

(7) Thence in a westerly direction along the unnamed road (known locally as Clark Road) to the point of beginning.

[T.D. ATF–89, 46 FR 39812, Aug. 5, 1981, as amended by T.D. ATF–216, 50 FR 43130, Oct. 24, 1985]

### § 9.29 Sonoma Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Sonoma Valley.''

(b) *Approved maps.* The maps showing the boundaries of the Sonoma valley viticultural area are entitled:

(1) ''Cuttings Wharf, Calif.'', 1949 (photorevised 1968 and photoinspected 1973), 7.5 minute quadrangle;

(2) ''Petaluma Point, Calif.'', 1959 (photorevised 1968 and photoinspected 1973), 7.5 minute quadrangle;

(3) ''Sears Point, Calif.'', 1951 (photorevised 1968), 7.5 minute quadrangle;

(4) ''Petaluma River, Calif.'', 1954 (photorevised 1968 and 1973), 7.5 minute quadrangle;

(5) ''Glen Ellen, Calif.'', 1954 (photorevised 1968 and photoinspected 1973), 7.5 minute quadrangle;

(6) ''Cotati, Calif.'', 1954 (photorevised 1968 and 1973), 7.5 minute quadrangle;

(7) ''Santa Rosa, Calif.'', 1954 (photorevised 1968 and 1973), 7.5 minute quadrangle;

(8) ''Kenwood, Calif.'', 1954 (photorevised 1968 and photoinspected 1973), 7.5 minute quadrangle; and

(9) Appropriate Sonoma County tax assessor's maps showing the Sonoma County-Napa County line.

(c) *Boundaries.* The Sonoma Valley viticultural area is located within Sonoma County, California. From the beginning point at the junction of Tolay Creek and San Pablo Bay, the boundary runs:

(1) Northerly along Tolay Creek to Highway 37;

(2) Westerly along Highway 37 to its junction with Highway 121;

(3) Northwesterly in a straight line to the peak of Wildcat Mountain;

(4) Northwesterly in a straight line to Sonoma Mountain to the horizontal control station at elevation 2,271 feet;

(5) Northwesterly in a straight line to the peak of Taylor Mountain;

(6) Northeasterly in a straight line to the point at which Los Alamos Road joins Highway 12;

(7) Easterly in a straight line to the peak of Buzzard Peak;

(8) Easterly in a straight line to the peak of Mount Hood;

(9) Easterly in a straight line to an unnamed peak located on the Sonoma County-Napa County line and identified as having an elevation of 2,530 feet (This unnamed peak is located in the northeast quarter of Section 9, Township 7 North, Range 6 West, Mt. Diablo Base and Meridian);

(10) Southerly along the Sonoma County-Napa County line to the point at which Sonoma Creek enters San Pablo Bay; and

(11) Southwesterly along the shore of San Pablo Bay to the beginning point.

[T.D. ATF–96, 46 FR 59238, Dec. 4, 1981, as amended by T.D. ATF–201, 50 FR 12533, Mar. 29, 1985; T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### §9.30 North Coast.

(a) *Name.* The name of the viticultural area described in this section is ''North Coast.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the North Coast viticultural area are three U.S.G.S. maps. They are entitled:

(1) ''San Francisco, Cal.'', scaled 1:250,000, edition of 1956, revised 1980;

(2) ''Santa Rosa, Cal.'', scaled 1:250,000, edition of 1958, revised 1970; and

(3) ''Ukiah, Cal.'', scaled 1:250,000, edition of 1957, revised 1971.

(c) *Boundaries.* The North Coast viticultural area is located in Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties, California. The beginning point is found on the ''Santa Rosa, California'' U.S.G.S. map at the point where the Sonoma and Marin County boundary joins the Pacific Ocean.

(1) Then east and southeast following the boundary between Marin and Sonoma Counties to the point where Estero Americano/Americano Creek crosses State Highway 1 east of Valley Ford;

(2) Then southeast in a straight line for approximately 22.0 miles to the peak of Barnabe Mountain (elevation 1466 feet);

(3) Then southeast in a straight line for approximately 10.0 miles to the peak of Mount Tamalpais (western peak, elevation 2604 feet);

(4) Then northeast in a straight line for approximately 5.8 miles to the confluence of San Rafael Creek and San Rafael Bay in San Rafael;

(5) Then north and northeast following San Rafael Bay and San Pablo Bay to Sonoma Creek;

(6) Then north following Sonoma Creek to the boundary between Napa and Solano Counties;

(7) Then east and north following the boundary between Napa and Solano Counties to the right-of-way of the Southern Pacific Railroad in Jameson Canyon;

(8) Then east following the right-of-way of the Southern Pacific Railroad to the junction with the Southern Pacific in Suisun City;

(9) Then north in a straight line for approximately 5.5 miles to the extreme southeastern corner of Napa County;

(10) Then north following the boundary between Napa and Solano Counties to the Monticello Dam at the eastern end of Lake Berryessa;

(11) Then following the south and west shore of Lake Berryessa to Putah Creek;

(12) Then northwest following Putah Creek to the boundary between Napa and Lake Counties;

(13) Then northwest in a straight line for approximately 11.4 miles to the peak of Brushy Sky High Mountain (elevation 3196 feet);

(14) Then northwest in a straight line for approximately 5.0 miles to Bally Peak (elevation 2288 feet);

(15) Then northwest in a straight line for approximately 6.6 miles to the peak of Round Mountain;

(16) Then northwest in a straight line for approximately 5.5 miles to Evans Peak;

(17) Then northwest in a straight line for approximately 5.0 miles to Pinnacle Rock Lookout;

(18) Then northwest in a straight line for approximately 8.0 miles to Youngs Peak (elevation 3683 feet);

(19) Then northwest in a straight line for approximately 11.2 miles to the peak of Pine Mountain (elevation 4057 feet);

(20) Then northwest in a straight line for approximately 12.1 miles to the peak of Sanhedrin Mountain (elevation 6175 feet);

(21) Then northwest in a straight line for approximately 9.4 miles to the peak of Brushy Mountain (elevation 4864 feet);

(22) Then southwest in a straight line for approximately 17.6 miles to the confluence of Redwood Creek and the Noyo River;

(23) Then west following the Noyo River to its mouth at the Pacific Ocean;

(24) Then southeast following the Pacific Ocean shoreline to the point of beginning.

[T.D. ATF–145, 48 FR 42977, Sept. 21, 1983]

### § 9.31 Santa Cruz Mountains.

(a) *Name.* The name of the viticultural area described in this section is ''Santa Cruz Mountains.''

(b) *Approved maps.* The 24 approved U.S.G.S. maps for determining the boundaries are 23 7.5 minute scale and one 5×11 minute scale.

(1) ''Ano Nuevo Quadrangle, California'';

(2) ''Big Basin Quadrangle, California'';

(3) ''Castle Rock Ridge Quadrangle, California'';

(4) ''Cupertino Quadrangle, California'';

(5) ''Davenport Quadrangle, California—Santa Cruz County'';

(6) ''Felton Quadrangle, California—Santa Cruz County'';

(7) ''Franklin Point Quadrangle, California'';

(8) ''Half Moon Bay Quadrangle, California—San Mateo County'';

(9) ''La Honda Quadrangle, California—San Mateo County'';

(10) ''Laurel Quadrangle, California'';

(11) ''Loma Prieta Quadrangle, California'';

(12) ''Los Gatos Quadrangle, California'';

(13) ''Mt. Madonna Quadrangle, California'';

(14) ''Mindego Hill Quadrangle, California'';

(15) ''Morgan Hill Quadrangle, California—Santa Clara County'';

(16) ''Palo Alto Quadrangle, California'';

(17) ''San Gregorio Quadrangle, California—San Mateo County'';

(18) ''San Mateo Quadrangle, California—San Mateo County'';

(19) ''Santa Teresa Hills Quadrangle—Santa Clara County'';

(20) ''Soquel Quadrangle, California—Santa Cruz County'';

(21) ''Watsonville East Quadrangle, California'';

(22) ''Watsonville West Quadrangle, California'';

(23) ''Woodside Quadrangle, California—San Mateo County''; and

(24) One 5×11 minute series map entitled: ''Santa Cruz, California.''

(c) *Boundaries.* The Santa Cruz Mountains viticultural area is located in portions of San Mateo, Santa Clara, and Santa Cruz Counties, California.

(1) From the beginning point where Highway 92 and the 400-foot contour line intersect (Half Moon Bay Quadrangle), the boundary line follows Highway 92, beginning in a southeasterly direction, to a point where Highway 92 and the 400-foot contour line intersect (San Mateo Quadrangle);

(2) Thence along the 400-foot contour line, beginning in a southeasterly direction, to a point where the 400-foot contour line and Canada Road intersect (Woodside Quadrangle);

(3) Thence along Canada Road, beginning in a southerly direction, to a point where Canada Road and Highway 280 intersect (Woodside Quadrangle);

(4) Thence along Highway 280, beginning in a southeasterly direction, to a point where Highway 280 and 84 intersect (Palo Alto Quadrangle);

(5) Thence along Highway 84, beginning in a southwesterly direction, to a point where Highway 84 and Mountain Home Road intersect (Woodside Quadrangle);

(6) Thence along Mountain Home Road, beginning in a southerly direction, to a point where Mountain Home Road and Portola Road intersect (Palo Alto Quadrangle);

(7) Thence along Portola Road, beginning in a westerly direction, to a point where Portola Road and Highway 84 intersect (Woodside Quadrangle);

(8) Thence along Highway 84, beginning in a southwesterly direction, to a point where Highway 84 and the 600-foot contour line intersect (Woodside Quadrangle);

(9) Thence along the 600-foot contour line, beginning in a northeasterly direction, to a point where the 600-foot contour line and Regnart Road intersect (Cupertino Quadrangle);

(10) Thence along Regnart Road, beginning in a northeasterly direction, to a point where Regnart Road and the 400-foot contour line intersect (Cupertino Quadrangle);

(11) Thence along the 400-foot contour line, beginning in a southerly direction, to a point where the 400-foot

contour line and the north section line of Section 35, T. 6 S./R. 2 W, intersect (Cupertino Quadrangle);

(12) Thence along the north section line of Sections 35 and 36, in an easterly direction, to a point where the section line and Highway 85 intersect (Cupertino Quadrangle);

(13) Thence along Highway 85, in a southerly direction, to a point where Highway 85 and the southern section line of Section 36 intersect (Cupertino Quadrangle);

(14) Thence along the section line, in a westerly direction, to a point where the section line and the 600-foot contour line intersect (Cupertino Quadrangle);

(15) Thence along the 600-foot contour line, beginning in a southerly direction, to a point where the 600-foot contour line and Pierce Road intersect (Cupertino Quadrangle);

(16) Thence along Pierce Road, in a southerly direction, to a point where Pierce Road and the 800-foot contour line intersect (Cupertino Quadrangle);

(17) Thence along the 800-foot line, beginning in a northwesterly direction, to a point where the 800-foot contour line and the east section line of Section 25, T. 10 S./R. 2 E., intersect (Mt. Madonna Quadrangle);

(18) Thence along the east section line, in a southerly direction, to a point where this section line and the 800-foot contour line intersect (Mt. Madonna Quadrangle);

(19) Thence along the 800-foot contour line, beginning in a southeasterly direction, to a point where the 800-foot contour line and Highway 152 intersect (Watsonville East Quadrangle);

(20) Thence along Highway 152, in a southwesterly direction, to a point where Highway 152 and the 400-foot contour line intersect (Watsonville East Quadrangle);

(21) Thence along the 400-foot contour line, beginning in a northwesterly direction, to a point where the 400-foot contour line and the Felton Empire Road intersect (Felton Quadrangle);

(22) Thence along Felton Empire Road, in an easterly direction, to a point where Felton Empire Road and Highway 9 intersect (Felton Quadrangle);

(23) Thence along Highway 9, in a southerly direction, to a point where Highway 9 and Bull Creek intersect (Felton Quadrangle);

(24) Thence along Bull Creek, beginning in a southwesterly direction, to a point where Bull Creek and the 400-foot contour line intersect (Felton Quadrangle); and

(25) Thence along the 400-foot contour line, beginning in a southeasterly direction, back to the point of beginning.

[T.D. ATF–98, 46 FR 59240, Dec. 4, 1981]

### §9.32 Los Carneros.

(a) *Name.* The name of the viticultural area described in this section is ''Los Carneros''. ''Carneros'' may also be used as the name of the viticultural area described in this section. For purposes of part 4 of this chapter, ''Los Carneros'' and ''Carneros'' are terms of viticultural significance.

(b) *Approved maps.* The approved maps for the Carneros viticultural area are the following U.S.G.S. maps:

(1) ''Sonoma Quadrangle, California,'' 7.5 minute series (topographic), 1951 (photorevised 1968).

(2) ''Napa Quadrangle, California—Napa Co.,'' 7.5 minute series (topographic), 1951 (photorevised 1968 and 1973).

(3) ''Cuttings Wharf Quadrangle, California,'' 7.5 minute series (topographic), 1949 (photorevised 1968; photoinspected 1973).

(4) ''Sears Point Quadrangle, California,'' 7.5 minute series (topographic), 1951 (photorevised 1968).

(5) ''Petaluma River Quadrangle,California—Sonoma Co.,'' 7.5 minute series (topographic), 1954 (photorevised 1980).

(6) ''Glen Ellen Quadrangle, California—Sonoma Co.,'' 7.5 minute series (topographic), 1954 (photorevised 1980).

(c) *Boundaries.* The boundaries of the Carneros viticultural area are located in Napa and Sonoma Counties, California, and are as follows:

(1) The point of beginning is the intersection of highway 12/121 and the Napa County-Sonoma County line, near the extreme southeast corner of the Sonoma Quadrangle map.

(2) From there, following the Napa County-Sonoma County line generally northwestward for about 1.6 miles to the summit of an unnamed hill with a marked elevation of 685 ft.

(3) From there in a straight line northeastward to the summit of Milliken Peak (743 ft.), located on the Napa Quadrangle map.

(4) From there due eastward to the 400 ft. contour line.

(5) Then following that contour line generally northwestward to Carneros Creek (on the Sonoma Quadrangle map).

(6) Then following the same contour line generally southeastward to the range line R. 5 W/R. 4 W (on the Napa Quadrangle map).

(7) Then continuing to follow the same contour line generally northward for about one mile, till reaching a point due west of the summit of an unnamed hill having a marked elevation of 446 ft. (That hill is about .8 mile southwest of Browns Valley School.)

(8) From that point due eastward to the summit of that hill.

(9) From there in a straight line northeastward across Buhman Avenue to the summit of an unnamed hill having a marked elevation of 343 ft.

(10) From there due eastward to the Napa-Entre Napa land grant boundary.

(11) Then northeastward along that land grant boundary to Browns Valley Road.

(12) Then eastward along Browns Valley Road to Highway 29.

(13) Then southward along Highway 29 to Imola Avenue.

(14) Then eastward along Imola Avenue to the Napa River.

(15) Then generally southward along the west bank of the Napa River to the Southern Pacific Railroad tracks.

(16) Then generally westward and northwestward along the Southern Pacific Railroad tracks to their intersection with the township line T. 5 N./T. 4 N. (on the Sears Point Quadrangle map).

(17) From there due westward to the Northwestern Pacific Railroad tracks.

(18) Then generally southward along the Northwestern Pacific Railroad tracks to Highway 37.

(19) The westward along Highway 37 to its intersection with Highway 121.

(20) From there northwestward in a straight line to the summit of Wildcat Mountain (682 ft.).

(21) From there northwestward, following a straight line toward the summit of Sonoma Mountain (2295 ft.—on the Glenn Ellen Quadrangle map) till reaching a point due west of the intersection of Lewis Creek with the 400-ft. contour line. (That point is about 4⅓ miles southeast of Sonoma Mountain.)

(22) From that point due eastward to Lewis Creek.

(23) Then generally southeastward along Lewis Creek to Felder Creek.

(24) Then generally eastward along Felder Creek to Leveroni Road (on the Sonoma Quadrangle map).

(25) Then generally eastward along Leveroni Road to Napa Road.

(26) Then eastward and southeastward along Napa Road to Highway 12/121.

(27) Then eastward along Highway 12/121 to the starting point.

[T.D. ATF–142, 48 FR 37368, Aug. 18, 1983, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987;T.D. TTB–55, 71 FR 66455, Nov. 15, 2006]

## § 9.33 Fennville.

(a) *Name.* The name of the viticultural area described in this section is ''Fennville.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Fennville Viticultural Area are three U.S.G.S. maps. They are entitled:

(1) ''Fennville Quadrangle, Michigan-Allegan County,'' 15 minute series;

(2) ''Bangor Quadrangle, Michigan,'' 15 minute series; and

(3) ''South Haven Quadrangle, Michigan,'' 15 minute series.

(c) *Boundaries.* The Fennville viticultural area is primarily located in the southwestern portion of Allegan County, Michigan, with a small finger extending into the northwest corner of Van Buren County, Michigan.

(1) The western boundary is the eastern shore of Lake Michigan, extending from the Black River, at the City of South Haven, north to the Kalamazoo River.

(2) The northern boundary is the Kalamazoo River, extending easterly

from Lake Michigan to 86°5′ west longitude.

(3) The eastern boundary is the 86°5′ west longitude meridian, extending from the Kalamazoo River to the intersection of the Middle Fork of the Black River.

(4) The southern boundary is the Middle Fork of the Black River extending westerly from 86°5′ west longitude until it joins the Black River, continuing west along the Black River to the eastern shore of Lake Michigan.

[T.D. ATF–91, 46 FR 46320, Sept. 18, 1981]

### §9.34 Finger Lakes.

(a) *Name.* The name of the viticultural area described in this section is ''Finger Lakes.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Finger Lakes viticultural area are two U.S.G.S. maps scaled 1:250,000. They are entitled:

(1) ''Rochester,'' Location diagram NK 18–1, 1961; and

(2) ''Elmira,'' Location diagram NK 18–4, 1968.

(c) *Boundaries.* The boundaries of the Finger Lakes viticultural area, based on landmarks and points of reference found on the approved maps, are as follows:

(1) Starting at the most northwest point, the intersection of the Erie Canal and the north/south Conrail line south of the City of Rochester.

(2) Then east along the course of the Erie Canal approximately 56 miles (45 miles due east) to the intersection of New York State Highway 89 (NY–89).

(3) Then south on NY–89 four miles to the intersection of highway US–20.

(4) Then east on US–20 for 36 miles to the intersection of interstate 81 (I–81).

(5) Then south along I–81 for ten miles to NY–281.

(6) Then south along NY–281 for 20 miles around the western city limits of Cortland where NY–281 becomes NY–13.

(7) Then continuing southwest on NY–13 (through the cities of Dryden and Ithaca) approximately 36 miles to the intersection of NY–224.

(8) Then due west one mile to the southern boundary of Schuyler County.

(9) Then continuing west along this county line 20 miles to the community of Meads Creek.

(10) Then north along the Schuyler-Steuben county line four miles to the major east-west power line.

(11) Then west along the power line for eight miles to the intersection of NY–17 (four miles southeast of the community of Bath).

(12) Then northwest on NY–17 approximately nine miles to the intersection of I–390.

(13) Then northwest on I–390 for 21 miles to the intersection of NY–36.

(14) Then north for two miles through the community of Dansville to NY–63.

(15) Then northwest on NY–63 approximately 18 miles to the intersection of NY–39, just south of Genesco.

(16) Then north on NY–39 nine miles to the intersection where the west and north/south Conrail lines meet at the community of Avon.

(17) Then north along the north/south Conrail line for 15 miles to the beginning point at the intersection of the Erie Canal.

[T.D. ATF–113, 47 FR 38518, Sept. 1, 1982, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### §9.35 Edna Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Edna Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Edna Valley viticultural area for four U.S.G.S. maps, They are titled:

(1) ''San Luis Obispo Quadrangle, California—San Luis Obispo Co.,'' 7.5 minute series;

(2) ''Lopez Mtn, Quadrangle, California—San Luis Obispo Co.,'' 7.5 minute series;

(3) ''Pismo Beach Quadrangle, California—San Luis Obispo Co.,'' 7.5 minute series; and

(4) ''Arroyo Grande NE Quadrangle, California—San Luis Obispo Co.'', 7.5 minute series.

(c) *Boundaries.* The Edna Valley viticultural area is located in San Luis Obispo County, California. The beginning point is Cuesta Canyon County Park, located on U.S.G.S. map ''San Luis Obispo Quadrangle'' at the north end of Section 25, Township 30 South, Range 12 East.

(1) From the beginning point, the boundary runs southwesterly along San

Luis Obispo Creek to a point .7 mile southerly of the confluence with Davenport Creek;

(2) Thence due east to the intersection with the 400-foot contour line of the northeastern flank of the San Luis Range;

(3) Thence in a generally easterly and then a southeasterly direction along this 400-foot contour line of the northeastern flank of the San Luis Range, which forms the southwestern rim of Edna Valley, to the township line identified as ''T31S/T32S'' on the U.S.G.S. map;

(4) Thence east along township line ''T31S/T32S'', across Price Canyon to Tiber;

(5) Thence in a generally easterly direction along the 400-foot contour line of Tiber Canyon and the southern rim of Canada Verde, crossing Corbit Canyon Road and continuing along the 400-foot contour line to longitude line 120°32′30″;

(6) Thence north along longitude line 120°32′30″ to the 600-foot contour line of the southwestern flank of the Santa Lucia Mountain Range;

(7) Thence in a generally northwesterly direction along the 600-foot contour line of the southwestern flank of the Santa Lucia Range to Cuesta Canyon County Park, the beginning point.

[T.D. ATF–101, 47 FR 20299, May 12, 1982, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### § 9.36 McDowell Valley.

(a) *Name.* The name of the viticultural area described in this section is ''McDowell Valley.''

(b) *Approved maps.* The appropriate map for determining the boundaries of the McDowell Valley viticultural area is a USGS map. That map is titled: ''Hopland Quadrangle California'' 7.5 minute series.

(c) *Boundaries.* (1) Beginning at the northwest corner of Section 22 T13N R11W.

(2) Then southerly along the section line between Sections 22 and 21 approximately 1700 feet to the intersection of the section line and the ridge line (highest elevation line) between the McDowell Creek Valley and the Dooley Creek Valley.

(3) Then southeasterly along the ridge line (highest elevation line) to the intersection of the ridge line and the 1000-foot contour line in Section 27.

(4) Then southeasterly and on the McDowell Creek Valley side of the ridge along the 1000-foot contour line to the intersection of the 1000-foot contour line and the south section line of Section 27.

(5) Then easterly along the section line between Sections 27 and 34 and between Sections 26 and 35 to the intersection of the section line and the centerline of Younce Road.

(6) Then southeasterly and then northeasterly along Younce Road to the intersection of Younce Road and the section line between Sections 26 and 35.

(7) Then due north from the section line, across Coleman Creek approximately 1250 feet, to the 1000-foot contour line.

(8) Then westerly and then meandering generally to the north and east along the 1000-foot contour line to the intersection of the 1000-foot contour line and section line between Sections 26 and 25.

(9) Then continuing along the 1000-foot countour line easterly and then northwesterly in Section 25 to the intersection of the 1000-foot contour line and the section line between Sections 26 and 25.

(10) Then northerly along the 1000-foot contour line to the intersection of the 1000-foot contour line and the section line between Sections 23 and 24.

(11) Then northerly along the section line across State Highway 175 approximately 1000 feet to the intersection of the section line and the 1000-foot contour line.

(12) Then generally to the northwest along the 1000-foot contour line through Sections 23 and 14 and into Section 15 to the intersection of the 1000-foot contour line and the flowline of an unnamed creek near the northeast corner of Section 15.

(13) Then southwesterly and down stream along the flowline of said unnamed creek and across Section 15, to the stream's intersection with the section line between Sections 15 and 16.

(14) Then southerly along the section approximately 100 feet to the northwest corner of Section 22 and to the point of beginning.

[T.D. ATF–97, 46 FR 59243, Dec. 4, 1981, as amended by T.D. ATF–249, 52 FR 5956, Feb. 27, 1987]

### §9.37 California Shenandoah Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Shenandoah Valley'' qualified by the word ''California'' in direct conjunction with the name ''Shenandoah Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the California Shenandoah Valley viticultural area are two 1962 U.S.G.S. maps. The maps are titled: ''Fiddletown Quadrangle California'' 7.5 minute series and ''Amador City Quadrangle California-Amador Co.'' 7.5 minute series.

(c) *Boundaries.* The Shenandoah Valley viticultural Area is located in portions of Amador and El Dorado Counties of California. The boundaries are as follows:

(1) Beginning at the point where the Consumnes River meets Big Indian Creek.

(2) Then south, following Big Indian Creek, until Big Indian Creek meets the boundary between Sections 1 and 2 of Township 7 North Range 10 East.

(3) Then following this boundary south until it meets the Oleta (Fiddletown) Road.

(4) Then following the Oleta Road east until it meets the boundary between Sections 6 and 5 of Township 7 North Range 11 East.

(5) Then following that boundary north into Township 8 North Range 11 East, and continues north on the boundary between Sections 31 and 32 until this boundary meets Big Indian Creek.

(6) Then following Big Indian Creek in a northeasterly direction until Big Indian Creek meets the boundary between Sections 28 and 27 of Township 8 North Range 11 East.

(7) Then following this boundary north until it reaches the southeast corner of Section 21 of Township 8 North Range 11 East.

(8) The boundary then proceeds east, then north, then west along the boundary of the western half of Section 22 of Township 8 North Range 11 East to the intersection of Sections 16, 15, 21, and 22.

(9) Then proceeding north along the boundary line between Sections 16 and 15 of Township 8 North Range 11 East and continues north along the boundary of Sections 9 and 10 of Township 8 North Range 11 East to the intersection of Sections 9, 10, 3, and 4 of Township 8 North Range 11 East.

(10) Then proceeding west along the boundary of Sections 9 and 4.

(11) Then continuing west along the boundary of Sections 5 and 8 of Township 8 North Range 11 East to the Consumnes River.

(12) Then the boundary proceeds west along the Consumnes River to the point of the beginning.

[T.D. ATF–121, 47 FR 57696, Dec. 28, 1982, as amended by T.D. ATF–249, 52 FR 5957, Feb. 27, 1987]

### §9.38 Cienega Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Cienega Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Cienega Valley viticultural area are four U.S.G.S. maps. They are titled:

(1) ''Hollister Quadrangle, California,'' 7.5 minute series (1971);

(2) ''Tres Pinos Quadrangle, California,'' 7.5 minute series (1971);

(3) ''Mt. Harlan Quadrangle, California,'' 7.5 minute series (1968); and

(4) ''Paicines Quadrangle, California,'' 7.5 minute series (1968).

(c) *Boundaries.* The Cienega Valley viticultural area is located in San Benito County, California. The beginning point is the Gaging Station, located on U.S.G.S. map ''Paicines Quadrangle'' in the southeast portion of Section 21, Township 14 South, Range 6 East.

(1) From the beginning point, the boundary follows the Pescadero Creek Bed in a southeasterly direction about 100 feet to the unimproved road and continues southwesterly on the unimproved road .5 mile to where it intersects with the south border of Township 14 South, Range 6 East, Section 21;

(2) Thence in a straight line to the southwest portion of Section 28, Township 14 South, Range 6 East, where the 1400-foot contour line intersects the south border of Section 28;

(3) Thence following the 1400-foot contour line through the following sections; Sections 28, 29, and 30, Township 14 South, Range 6 East; Section 25, Township 14 South, Range 5 East; Sections 30, 19, 20, and returning to 19, Township 14 South, Range 6 East, to a point where the 1400-foot contour line intersects with the section line between Sections 19 and 18, Township 14 South, Range 6 East;

(4) Thence in a straight line due north to the intersection with the 1200-foot contour line in Section 18, Township 14 South, Range 6 East;

(5) Thence following the 1200-foot contour line in a generally northwesterly direction to where it intersects with the north boundary of Township 14 South, Range 5 East, Section 10; then following this boundary line in a northwesterly direction to where this boundary intersects with the 1600-foot contour line; thence following the 1600-foot contour line in a generally northerly direction to where it intersects with the unimproved road;

(6) Thence looping southward along the unimproved road and continuing on in an easterly direction past the designated ''Spring'' and then in a northeasterly direction parallel with the Gulch to the Vineyard School on Cienega Road; thence in a southeasterly direction on Cienega Road .4 mile to where the unimproved road intersects; thence traveling north and following the unimproved road in a northwesterly direction about 5. mile; then looping in an easterly direction .75 mile to the intersection of the unimproved road and branching in a southeasterly direction;

(7) Thence crossing Township 13 South to Township 14 South and following the unimproved road to the intersection of the western border of Township 14 South, Range 6 East, Section 6; thence south to the northwest corner of Section 7;

(8) Thence continuing in a straight diagonal line to the southeast corner of Township 14 South, Range 6 East, Section 7; thence from the southeast corner of Section 7 .25 mile west to where it intersects with an unimproved road;

(9) Thence following this unimproved road in a southeasterly direction to the Gaging Station, the point of beginning.

[T.D. ATF–109, 47 FR 36126, Aug. 19, 1982]

## § 9.39 Paicines.

(a) *Name.* The name of the viticultural area described in this section is ''Paicines.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Paicines viticultural area are the three U.S.G.S. maps. They are titled:

(1) ''Tres Pinos Quadrangle, California,'' 7.5 minute series (1971);

(2) ''Paicines Quadrangle, California,'' 7.5 minute series (1968); and

(3) ''Cherry Peak Quadrangle, California,'' 7.5 minute series (1968).

(c) *Boundaries.* The Paicines viticultural area is located in San Benito County, California. The beginning point is the northwestern-most point of the proposed area at Township 14 South, Range 6 East, Section 3, northwest corner, located on U.S.G.S. map ''Tres Pinos Quadrangle.''

(1) From the beginning point the boundary runs east along the north border of Sections 3, 2, and 1, Township 14 South, Range 6 East;

(2) Thence south along the east border of Section 1, Township 14 South, Range 6 East; thence east along the north border of Section 7, Township 14 South, Range 7 East; thence south along the east border of Section 7, Township 14 South, Range 7 East;

(3) Thence continuing south along the east border of Section 18, Township 14 South, Range 7 East; thence east along the north border of Section 20, Township 14 South, Range 7 East; thence south along the east border of Sections 20, 29 and 32, Township 14 South, Range 7 East;

(4) Thence continuing south along the east border of Section 5, Township 15 South, Range 7 East; thence south along the east border of Sections 8 and 17, Township 15 South, Range 7 East to latitude line 36°37′30″;

(5) Thence west along latitude line 36°37′30″ to the west border of Section 18, Township 15 South, Range 7 East;

(6) Thence north along the west border of Sections 18 and 7, Township 15

South, Range 7 East; thence west along the south border of Section 1, Township 15 South, Range 6 East; thence north along the west border of Section 1, Township 15 South, Range 6 East to the 800-foot elevation contour line and then in a generally northwest direction along this 800-foot contour line to where it intersects with the south border of Section 35, Township 14 South, Range 6 East;

(7) Thence west along the south border of Section 35, Township 14 South, Range 6 East; thence north along the east border of Section 34, Township 14 South, Range 6 East; thence in a northwest direction along the northeast border of Section 34, Township 14 South, Range 6 East; thence continuing in a northwest direction along the east border of Section 27, Township 14 South, Range 6 East;

(8) Thence continuing in a northwest direction to the northeast border of Section 22, Township 14 South, Range 6 East to where an unnamed, unimproved dirt road intersects the northeast border; thence east and then northwest along the unimproved dirt road to the intersection with the San Benito River; thence following the San Benito River and meandering north to the intersection with the east border of Section 4, Township 14 South, Range 6 East;

(9) Thence continuing north along the east border of Section 4, Township 14 South, Range 6 East to the point of beginning.

[T.D. ATF–108, 47 FR 35481, Aug. 16, 1982]

### §9.40 Leelanau Peninsula.

(a) *Name.* The name of the viticultural area described in this section is ''Leelanau Peninsula.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Leelanau Peninsula viticultural area are four U.S.G.S. maps. They are entitled:

(1) ''Empire Quadrangle, Michigan,'' 15 minute series;

(2) ''Maple City Quadrangle, Michigan,'' 15 minute series;

(3) ''Traverse City Quadrangle, Michigan,'' 15 minute series; and

(4) ''Northport Quadrangle, Michigan,'' 15 minute series.

(c) *Boundaries.* The Leelanau Peninsula viticultural area encompasses all of Leelanau County, Michigan, excluding the offshore islands.

[T.D. ATF–99, 47 FR 13329, Mar. 30, 1982]

### §9.41 Lancaster Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Lancaster Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lancaster Valley viticultural area are two U.S.G.S. maps. They are entitled:

(1) ''Lancaster County, Pennsylvania'', scaled 1:50,000, edition of 1977; and

(2) ''Honey Brook Quadrangle'', 7.5 minute series, edition of 1955, photorevised 1969 and 1974.

(c) *Boundaries.* The Lancaster Valley viticultural area is located in Lancaster County and Chester County, Pennsylvania. The beginning point is where Pennsylvania Highway 23 crosses the Lancaster and Berks County boundary.

(1) Then in a southeasterly direction following the Lancaster County boundary for approximately 0.9 mile to the 500 foot contour line immediately south of the Conestoga River.

(2) Then following the 500 foot contour in a southwesterly direction to the Caernarvon-East Earl Township boundary.

(3) Then south approximately 0.1 mile following the Caernarvon-East Earl Township boundary to U.S. Highway 322.

(4) Then west following U.S. Highway 322 for approximately 1.7 miles to the electric transmission line between Fetterville and Cedar Grove School.

(5) Then southwest in a straight line for approximately 5.2 miles to the intersection of Earl, Upper Leacock, and Leacock Townships at the Mill Creek.

(6) Then southeast following the boundary between Earl Township and Leacock Township to the point where Earl, East Earl, Salisbury, and Leacock Townships intersect.

(7) Then east in a straight line for approximately 4.8 miles to the point where the 500 foot contour line intersects Pequea Creek northwest of Mt. Pleasant School.

(8) Then following the 500 foot contour line past Cole Hill through the town of Gap and along Mine Ridge to the 76°07′30″ west longitude line in Paradise Township.

(9) Then southwest in a straight line for approximately 7.7 miles to the Boehm Church south of Willow Street.

(10) The northwest in a straight line for approximately 1.2 miles to the township school in West Willow.

(11) Then west in a straight line for 4.2 miles to the confluence of Stehman Run and the Conestoga River.

(12) Then northwest in a straight line for approximately 0.5 mile to the confluence of Indian Run and Little Conestoga Creek.

(13) Then west following Indian Run for approximately 3.6 miles to the source of the more northerly branch.

(14) Then northwest in a straight line for approximately 0.25 mile to the source of Wisslers Run.

(15) Then west following Wisslers Run downstream for approximately 0.7 mile to the 300 foot contour line.

(16) Then north following the 300 foot contour line to its intersection with Pennsylvania Highway 999 in Washington Boro.

(17) Then east following Pennsylvania Highway 999 to the school in Central Manor.

(18) Then northeast in a straight line for approximately 2.7 miles to the point where the West Branch of the Little Conestoga Creek intersects with Pennsylvania Highway 462.

(19) Then west following Pennsylvania Highway 462 for approximately 1.5 miles to Strickler Run.

(20) Then following Strickler Run southwest to the Columbia municipal boundary.

(21) Then north following the eastern boundary of Columbia to Shawnee Run.

(22) Then northeast in a straight line for approximately 5.8 miles to the intersection of Pennsylvania Highway 23 and Running Pump Road [unnamed on map] at elevation check point 436 near Centerville.

(23) Then east following Pennsylvania Highway 23 for approximately 0.5 mile to the 400 foot contour line.

(24) Then following the 400 foot contour line north around Chestnut Ridge, past Millers Run and continuing until the 400 foot contour line intersects an unnamed stream.

(25) Then due south in a straight line for approximately 0.8 mile to Pennsylvania Highway 23.

(26) Then west following Pennsylvania Highway 23 to the intersection with Pennsylvania Highway 441 at Marietta.

(27) Then west following Pennsylvania Highway 441 to Pennsylvania Highway 241 near Bainbridge.

(28) Then northwest in a straight line for approximately 5.5 miles to the point where the Consolidated Railroad Corporation crosses the West Donegal-Mount Joy Township boundary in Rheems.

(29) Then east in a straight line for approximately 3.3 miles to the Mt. Pleasant Church.

(30) Then east in a straight line for approximately 3.8 miles to the Erismans Church.

(31) Then east in a straight line for approximately 3.3 miles to the point where the 400 foot contour line crosses Pennsylvania Highway 72 south of Valley View.

(32) Then following the 400 foot contour line east to Pennsylvania Highway 501.

(33) Then east in a straight line for approximately 2.9 miles to the Union Meetinghouse.

(34) Then southeast in a straight line for approximately 1.0 miles to the point where Pennsylvania Highway 272 (indicated as U.S. Highway 222 on the map) crosses Cocalico Creek (which forms the boundary between West Earl and Warwick Townships).

(35) Then northwest following the West Earl Township boundary to its intersection with U.S. Highway 322 southeast of Ephrata.

(36) Then east in a straight line for approximately 3.4 miles to the Lincoln Independence School.

(37) Then southeast in a straight line for approximately 1.7 miles to the West Terre Hill School.

(38) Then east in a straight line for approximately 8.5 miles to the beginning point.

[T.D. ATF–102, 47 FR 20301, May 12, 1982]

### §9.42 Cole Ranch.

(a) *Name.* The name of the viticultural area described in this section is ''Cole Ranch.''

(b) *Approved map.* The approved map for the Cole Ranch viticultural area is the U.S.G.S. map entitled ''Elledge Peak Quadrangle California—Mendocino County,'' 7.5 minute series (topographic), 1958.

(c) *Boundaries.* The boundaries of the Cole Ranch viticultural area are located in Mendocino County California and are as follows:

(1) The point of beginning is the intersection of the 1480-foot-elevation contour line with the Boonville-Ukiah Cutoff Road near the southest coner of section 13;

(2) The Boundary follows the 1480-foot-elevation contour line southerly, then easterly, within section 24, then easterly and northwesterly within section 19 to its first intersection with this section line. The boundary proceeds due west on the north section line of section 19 until it intersects with the Boonville-Ukiah Cutoff Road;

(3) The boundary follows this road northwesterly to the point of beginning.

[T.D. ATF–130, 48 FR 16248, Apr. 15, 1983]

### §9.43 Rocky Knob.

(a) *Name.* The name of the viticultural area described in this section is ''Rocky Knob.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Rocky Knob viticultural area are two 1968 U.S.G.S. maps. The maps are entitled: ''Willis Quadrangle Virginia'' 7.5 minute series and ''Woolwine Quadrangle Virginia'' 7.5 minute series.

(c) *Boundaries.* The Rocky Knob viticultural area is located in Floyd and Patrick Counties in southern Virginia. The boundaries are as follows:

(1) The beginning point is the intersection of Virginia State Route Nos. 776 and 779 at Connors Grove.

(2) Then follow State Route No. 779 south and east to the Blue Ridge Parkway.

(3) Then south on the parkway to its first intersection with State Route No. 758.

(4) Then follow State Route No. 758 east to the intersection of State Route No. 726 at the southern boundary of the Rocky Knob Recreation Area.

(5) Then follow the boundary of the Rocky Knob Recreation Area south then in a northeastern direction to where the boundary first intersects State Route No. 8.

(6) Then from that point at State Route No. 8, proceed northeast in a straight line to State Route No. 719 and Widgeon Creek at a point about 0.7 of a mile west of the intersection of State Route Nos. 719 and 710.

(7) Then proceed northwest in a straight line to the intersection with State Route No. 710 and the Blue Ridge Parkway.

(8) Then follow the Parkway southwest to the intersection with State Route No. 726.

(9) Then turn right on State Route No. 726 and proceed 0.6 of a mile to a roadway at the 3308 elevation point on the map.

(10) Then from that point, proceed west in a straight line back to the starting point at Connors Grove.

[T.D. ATF–124, 48 FR 1293, Jan. 12, 1983, as amended by T.D. ATF–249, 52 FR 5957, Feb. 27, 1987]

### §9.44 Solano County Green Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Green Valley'' qualified by the words ''Solano County'' in direct conjunction with the name ''Green Valley.'' On a label the words ''Solano County'' may be reduced in type size to the minimum allowed in 27 CFR 4.38(b).

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Green Valley viticultural area are two U.S.G.S. maps. They are titled:

(1) ''Mt. George Quadrangle, California'', 7.5 minute series (1968); and

(2) ''Cordelia Quadrangle, California'', 7.5 minute series (1968).

(c) *Boundaries.* The Green Valley viticultural area is located in Solano County, California. The beginning point is the intersection of the township line identified as T6N/T5N with the westernmost point of the Solano County/Napa County line on the north border of Section 4, located on U.S.G.S. map ''Mt. George Quadrangle.''

(1) From the beginning point, the boundary runs in a southerly direction along the Napa/Solano County border to State Road 12;

(2) Thence east along State Road 12 to where it intersects with Interstate 80;

(3) Thence southwest on Interstate 80 to where it intersects with the Southern Pacific Railroad track;

(4) Thence in an easterly direction along the Southern Pacific Railroad track to where it intersects with range line ''R3W/R2W'';

(5) Thence due north on range line ''R3W/R2W'' to where it intersects with the Solano County/Napa County line;

(6) Thence due west along the Solano County/Napa County line to the point of beginning.

[T.D. ATF–122, 47 FR 37922, Dec. 29, 1982]

### § 9.45 Suisun Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Suisun Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Suisun Valley viticultural area are four U.S.G.S. maps. They are titled:

(1) ''Mt. George Quadrangle, California'', 7.5 minute series (1968);

(2) ''Fairfield North Quadrangle, California'', 7.5 minute series (1973);

(3) ''Fairfield South Quadrangle, California'', 7.5 minute series (1968); and

(4) ''Cordelia Quadrangle, California'', 7.5 minute series (1968).

(c) *Boundaries.* The Suisun Valley viticultural area is located in Solano County, California. The beginning point is the intersection of the Southern Pacific Railroad track with range line ''R3W/R2W'' in the town of Cordelia, located on U.S.G.S. map ''Cordelia Quadrangle.''

(1) From the beginning point, the boundary runs northeast in a straight line to the intersection of Ledgewood Creek with township line ''T5N/T4N'';

(2) Thence in a straight line in a northeast direction to Bench Mark (BM) 19 located in the town of Fairfield;

(3) Thence in a straight line due north to Soda Springs Creek;

(4) Thence in a straight line in a northwest direction to the extreme southeast corner of Napa County located just south of Section 34, Township 6 North, Range 2 West;

(5) Thence due west along the Napa/Solano County border to where it intersects with range line ''R3W/R2W'';

(6) Thence due south along range line ''R3W/R2W'' to the point of beginning.

[T.D. ATF–117, 47 FR 52997, Nov, 24, 1982]

### § 9.46 Livermore Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Livermore Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Livermore Valley viticultural area are 13 United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Clayton, CA (1953; Photorevised 1980; Minor Revision 1994);

(2) Diablo, Calif. (1953; Photorevised 1980);

(3) Tassajara, CA (1996);

(4) Byron Hot Springs, Calif., (1953, Photorevised 1968);

(5) Altamont, Calif., (1953, Photorevised 1981);

(6) Midway, Calif., (1953, Photorevised 1980);

(7) Cedar Mtn., CA, (1956, Photorevised 1971, Minor Revision 1994);

(8) Mendenhall Springs, CA (1996);

(9) La Costa Valley, CA (1996);

(10) Niles, Calif., (1961, Photorevised 1980);

(11) Dublin, Calif., (1961, Photorevised 1980);

(12) Hayward, CA (1993); and

(13) Las Trampas Ridge, CA (1995).

(c) *Boundary.* The Livermore Valley viticultural area is located in the State of California in Contra Costa and Alameda Counties. The Livermore Valley viticultural area's boundary is defined as follows:

(1) The beginning point is on the Clayton map at the peak of Mount Diablo (VABM 3849) where the Mount Diablo Base Line and Mount Diablo Meridian Line intersect, T1S, R1E;

(2) From the beginning point proceed southeast in a straight line for approximately 14 miles, crossing the Diablo and Tassajara maps, and pass onto the Byron Hot Springs map to the summit

of Brushy Peak (elevation 1,702 feet), T1S, R2E; then

(3) Continue due south in a straight line approximately 400 feet to the northern boundary of section 13, T2S, R2E; then

(4) Proceed due east along the section 13 and section 18 northern boundary lines to the northeast corner of section 18, T2S, R3E; then

(5) Continue southeast in a straight line approximately 1.8 miles to BM 720 in section 21, T2S, R3E, on the Altamont map; then

(6) Continue south-southeast in a straight line approximately 1 mile to an unnamed, 1,147-foot peak in section 28, T2S, R3E; then

(7) Continue south-southwest in a straight line approximately 1.1 miles to the intersection of the eastern boundary of section 32, T2S, R3E, with Interstate 580; then

(8) Continue southeast in a straight line approximately 2.7 miles to BM 1602 in Patterson Pass in section 10, T3S, R3E; then

(9) Continue south-southeast in a straight line approximately 2.8 miles to BM 1600, adjacent to Tesla Road in section 26, T3S, R3E, on the Midway map; then

(10) Continue south in a straight line approximately 4.2 miles, passing onto the Cedar Mtn. map, to BM 1878, 40 feet north of Mines Road, in section 14, T4S, R3E; then

(11) Proceed west-southwest in a straight line approximately 4.2 miles, passing onto the Mendenhall Springs map, to the southeast corner of section 19, T4S, R3E; then

(12) Continue west along the southern boundaries of section 19, T4S, R3E, and section 24, T4S, R2E, to the southwest corner of section 24; then

(13) Proceed north along the western boundary of section 24, T4S, R2E, to the southeast corner of section 14, T4S, R2E; then

(14) Continue west along the southern boundary of section 14, T4S, R2E, to its southwest corner and then proceed north along the western boundary of section 14 to its intersection with the Hetch Hetchy Aqueduct, T4S, R2E; then

(15) Follow the Hetch Hetchy Aqueduct west-southwest approximately 4.2 miles to the Aqueduct's intersection with the R1E/R2E range line on the La Costa Valley map, T4S; then

(16) Continue southwest in a straight line approximately 3.9 miles, crossing Apperson, Welsh, and Alameda Creeks, to BM 533 in section 10, T5S, R1E; then

(17) Proceed due west-northwest in a straight line approximately 1.9 miles, passing onto the Niles map, to the line's intersection with the eastern boundary of section 5 and the Fremont Boundary Line, T5S, R1E; then

(18) Continue northwest in a straight line approximately 1.1 miles to an unnamed, 1,291-foot peak in section 32, T4S, R1E; then

(19) Continue northwest in a straight line approximately 1.1 miles to an unnamed, 1,058-foot peak in section 30, T4S, R1E; then

(20) Continue northwest in a straight line approximately 3.8 miles, passing through BM 161 in section 11, T4S, R1W, until the line intersects Palomares Road, a medium duty road, in section 11; then

(21) Follow Palomares Road in a northerly direction for approximately 0.7 miles to the road's intersection with the power transmission line shown in section 11, T4S, R1W; then

(22) Proceed northwest along the power transmission line for approximately 6.4 miles, passing through the Dublin map near Walpert Ridge, onto the Hayward map to the point where the power transmission line turns nearly west, approximately 500 feet south of an unnamed, 891-foot, peak, T3S, R2W; then

(23) Continue north-northwest in a straight line approximately 1.4 miles to an unnamed, 840-foot peak, T3S, R2W; then

(24) Proceed north-northeast in a straight line approximately 3.4 miles, returning to the Dublin map, to the point where the Contra Costa County-Alameda County line turns to the northwest, about 0.4 mile west of Wiedemann Hill (elevation 1,854 feet), section 20, T2S, R1W; then

(25) Proceed in a northwesterly direction along the meandering Contra Costa County-Alameda County line for approximately 6.0 miles, passing briefly onto the Hayward, Las Trampas

Ridge, and Diablo maps, before returning to the Las Trampas Ridge map and continuing to the point where the Contra Costa County-Alameda County line turns to the west-northwest, section 35, T1S, R2W; then

(26) Continue north-northwest in a straight line approximately 2.7 miles to the summit of Las Trampas Peak (elevation 1,827 feet) in section 22, T1S, R2W; then

(27) Proceed east-northeast in a straight line approximately 8.8 miles, passing through the Diablo map, and return to the beginning point.

[T.D. ATF–112, 47 FR 38520, Sept. 1, 1982, as amended by T.D. TTB–47, 71 FR 34531, June 15, 2006]

### § 9.47 Hudson River Region.

(a) *Name.* The name of the viticultural area described in this section is ''Hudson River Region.''

(b) *Approved maps.* The approved maps for determining the boundaries of Hudson River Region viticultural area are four U.S.G.S. maps, as follows:

(1) Albany (NK 18–6), scale of 1:250,000 series;

(2) Hartford (NK 18–9), scale of 1:250,000 series;

(3) Scranton (NK 18–8), scale of 1:250,000 series;

(4) Binghamton (NK 18–5), scale of 1:250,000 series.

(c) *Boundary.* The Hudson River Region viticultural area is located in New York State. The boundary is as follows:

(1) The beginning point is the point where N.Y. Route 15 (Merritt Parkway) crosses the New York-Connecticut state line.

(2) The boundary proceeds northerly along the New York-Connecticut state line and the New York-Massachusetts state line to the northeast corner of Columbia County, New York.

(3) The boundary proceeds westerly along the Columbia County-Rensselaer County line to the Columbia County-Greene County line in the Hudson River.

(4) The boundary proceeds southerly along the Columbia County-Greene County line in the Hudson River to the northeast corner of Ulster County.

(5) The boundary proceeds westerly along the Ulster County-Greene County line to N.Y. Route 214.

(6) The boundary proceeds southerly along the eastern side of N.Y. Route 214 to the junction with N.Y. Route 28 in Phoenicia.

(7) The boundary proceeds southerly along the eastern side of N.Y. Route 28 to the junction with N.Y. Route 28A.

(8) The boundary proceeds southerly along the eastern side of N.Y. Route 28A to the intersection with the secondary, hard surface, southbound road leading toward Samsonville.

(9) The boundary proceeds southerly along the eastern side of this southbound road through Samsonville, Tabasco, Mombaccus, Fantinekill, and Pataukunk to the junction with U.S. Route 209.

(10) The boundary proceeds southerly along the eastern side of U.S. Route 209 to the New York-Pennsylvania state line in the Delaware River.

(11) The boundary proceeds easterly along the Delaware River to the New York-New Jersey state line.

(12) The boundary proceeds easterly along the New York-New Jersey state line to N.Y. Route 17.

(13) The boundary proceeds northerly along the western side of N.Y. Route 17 to the junction with Interstate Route 287.

(14) The boundary proceeds easterly along the northern side of Interstate Route 287 to the junction with N.Y. Route 15.

(15) The boundary proceeds easterly along the northern side of N.Y. Route 15 to the beginning point.

[T.D. ATF–105, 47 FR 24294, June 4, 1982]

### § 9.48 Monticello.

(a) *Name.* The name of the viticultural area described in this section is ''Monticello.''

(b) *Approved maps.* Approved maps for the Monticello viticultural area are three 1971 U.S.G.S. maps titled:

(1) Charlottesville Quadrangle, Virginia: 1:250,000 minute series;

(2) Roanoke Quadrangle, Virginia: 1:250,000 minute series; and

(3) Washington, DC: 1:250,000 minute series.

(c) *Boundaries.* (1) From Norwood, Virginia, following the Tye River west and northwest until it intersects with the eastern boundary of the George Washington National Forest;

(2) Following this boundary northeast to Virginia Rt. 664;

(3) Then west following Rt. 664 to its intersection with the Nelson County line;

(4) Then northeast along the Nelson County line to its intersection with the Albemarle County line at Jarman Gap;

(5) From this point continuing northeast along the eastern boundary of the Shenandoah National Park to its intersection with the northern Albemarle County line;

(6) Continuing northeast along the Greene County line to its intersection with Virginia Rt. 33;

(7) Follow Virginia Rt. 33 east to the intersection of Virginia Rt. 230 at Stanardsville;

(8) Follow Virginia Rt. 230 north to the Greene County line (the Conway River);

(9) Following the Greene County line (Conway River which becomes the Rapidan River) southeast to its intersection with the Orange County line;

(10) Following the Orange County line (Rapidan River) east and northeast to its confluence with the Mountain Run River;

(11) Then following the Mountain Run River southwest to its intersection with Virginia Rt. 20;

(12) Continuing southwest along Rt. 20 to the corporate limits of the town of Orange;

(13) Following southwest the corporate limit line to its intersection with U.S. Rt. 15;

(14) Continuing southwest on Rt. 15 to its intersection with Virginia Rt. 231 in the town of Gordonsville;

(15) Then southwest along Rt. 231 to its intersection with the Albemarle County line.

(16) Continuing southwest along the county line to its intersection with the James River;

(17) Then following the James River to its confluence with the Tye River at Norwood, Virginia, the beginning point.

[T.D. ATF–164, 49 FR 2758, Jan. 23, 1984, as amended by T.D. ATF–249, 52 FR 5957, Feb. 27, 1987; T.D. ATF–255, 52 FR 23652, June 24, 1987]

## §9.49 Central Delaware Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Central Delaware Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Central Delaware Valley viticultural area are nine U.S.G.S. maps in the 7.5 minute series (topographic). They are titled:

(1) Bloomsbury Quadrangle, New Jersey, 1955 (photorevised 1970).

(2) Riegelsville Quadrangle, Pennsylvania-New Jersey, 1956 (photorevised 1968 and 1973).

(3) Frenchtown Quadrangle, Pennsylvania-New Jersey, 1955 (photorevised 1970).

(4) Lumberville Quadrangle, Pennsylvania-New Jersey, 1955 (photorevised 1968 and 1973).

(5) Stockton Quadrangle, New Jersey-Pennsylvania, 1954 (photorevised 1970).

(6) Hopewell Quadrangle, New Jersey, 1954 (photorevised 1970).

(7) Buckingham Quadrangle, Pennsylvania—Bucks Co., 1953 (photorevised 1968 and 1973).

(8) Lambertville Quadrangle, Pennsylvania-New Jersey, 1953 (photorevised 1968 and 1973).

(9) Pennington Quadrangle, New Jersey-Pennsylvania 1954 (photorevised 1970).

(c) *Boundary*—(1) *General.* The Central Delaware Valley viticultural area is located in Pennsylvania and New Jersey. The starting point of the following boundary description is the summit of Strawberry Hill, which is located in New Jersey near the Delaware River about one mile northwest of Titusville, at the southern end of the Central Delaware Valley viticultural area. The starting point is found on the Lambertville Quadrangle map.

(2) *Boundary Description:* (i) From the summit of Strawberry Hill (475 feet) in a straight line to the summit of Mt. Canoe (428 feet—on the Pennington Quadrangle map).

(ii) From there due east to Mercer County Route 579 (Bear Tavern Road) about .2 mile south of Ackors Corner.

(iii) Then northward along Mercer 579 to Harbourton.

(iv) From there northwestward along Route 3 (Mount Airy-Harbourton Road) to the 2nd English Presbyterian Church

in Mount Airy (on the Stockton Quadrangle map).

(v) From there along Old York Road northward to Benchmark 157 on U.S. Route 202.

(vi) From there westward along Queen Road and northwestward along Mount Airy Road to Dilts Corner.

(vii) From there northwestward along Dilts Corner Road to Sandy Ridge Church.

(viii) From there northwestward via Cemetary Road to Benchmark 305.

(ix) From there northward along Covered Bridge Road to Green Sergeant Covered Bridge.

(x) From there generally westward along Sanford Road to its intersection with Route 519 about one mile north of Rosemont.

(xi) From there northward along Route 519 (via Kingwood, Barbertown and Baptistown) to Palmyra (on the Frenchtown Quadrangle map).

(xii) From the intersection in Palmyra, in a straight line northward to the 487 ft. elevation point near Nishisakawick Creek.

(xiii) From there in a straight line northwestward to Benchmark 787 on Rt. 579 (a secondary hard surface highway, unnamed on the map).

(xiv) From there northward along Route 579 to Benchmark 905 (on the Bloomsbury Quadrangle map).

(xv) From there in a straight line westward to the 952 ft. summit ;of Musconetcong Mountain (on the Frenchtown Quadrangle map).

(xvi) From there in a straight line southwestward to the 836 ft. summit of Musconetcong Mountain (on the Riegelsville Quadrangle map).

(xvii) From there in straight lines connecting the 838 ft., 839 ft., 707 ft., and 386 ft. summits of Musconetcong Mountain.

(xviii) From the 386 ft. summit of Musconetcong Mountain in a straight line across the Delaware River to the intersection of Routes 611 and 212.

(xix) From there along Route 212 to the intersection with the lane going up Mine Hill.

(xx) From there in a straight line to the summit of Mine Hill (488 feet).

(xxi) From there in a straight line southwestward to the 522 ft. summit elevation point.

(xxii) From there southeastward to the summit of Chestnut Hill (743 feet).

(xxiii) From there in a straight line southeastward to the 347 ft. summit elevation point (located south of Kintnersville near Benchmark 173, about .1 mile west of Route 611).

(xxiv) From there in a straight line eastward to the summit of Coffman Hill (826 feet).

(xxv) From there in a straight line southeastward to the 628 ft. summit elevation point (about .3 mile north of Camp Davis).

(xxvi) From there in a straight line southeastward to the point where Bridgeton, Nockamixon, and Tinicum Townships meet (on the Frenchtown Quadrangle map).

(xxvii) From there in a straight line southward to the intersection of Slant Hill Road (Covered Bridge Road) and Stump Road in Smiths Corner (on the Lumberville Quadrangle map).

(xxviii) From there in a straight line southeastward to the 472 ft. elevation point near Rocky Ridge School.

(xxix) From there southeastward in a straight line to the 522 ft. elevation point on Plumstead Hill.

(xxx) From there in a straight line to the 482 ft. elevation point about .7 mile northwest of Lahaska.

(xxxi) From there in a straight line southeastward to the 352 ft. elevation point approximately .6 mile northeast of Lahaska.

(xxxii) From there in a straight line to the point where a power transmission line crosses the 400 ft. contour line on the south side of Solebury Mountain (on the Lambertville Quadrangle map).

(xxxiii) From there in a straight line to the tower on Bowman Hill in Washington Crossing State Park.

(xxxiv) From there in a straight line across the Delaware River to the starting point, the summit of Strawberry Hill (475 feet).

[T.D. ATF–168, 49 FR 10117, Mar. 19, 1984, as amended by T.D. ATF–249, 52 FR 5958, Feb. 27, 1987]

### § 9.50 Temecula Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Temecula Valley.''

(b) *Approved map.* The approved maps for determining the boundary of the Temecula Valley viticultural area are seven USGS quadrangle maps in the 7.5 minute series, as follows:

(1) Wildomar, California, dated 1953, photorevised 1973;

(2) Fallbrook, California, dated 1968;

(3) Murrieta, California, dated 1953, photorevised 1979;

(4) Temecula, California, dated 1968, photorevised 1975;

(5) Pechanga, California, dated 1968;

(6) Sage, California, dated 1954;

(7) Bachelor Mountain, California, dated 1953, photorevised 1973.

(c) *Boundary.* The Temecula Valley viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northernmost point of the Santa Rosa Land Grant where the Santa Rosa Land Grant boundary intersects the easternmost point of the Cleveland National Forest boundary.

(2) The boundary follows the Cleveland National Forest boundary southwesterly to the point where it converges with the Riverside County-San Diego County line.

(3) The boundary follows the Riverside County-San Diego County line southwesterly, then southeasterly to the point where the Riverside County-San Diego County line diverges southward and the Santa Rosa Land Grant boundary continues southeasterly.

(4) The boundary follows the Santa Rosa Land Grant boundary southeasterly, then northeasterly, to its intersection with the Temecula Land Grant boundary.

(5) The boundary follows the Temecula Land Grant boundary southeasterly, then northeasterly, to its intersection with the Little Temecula Land Grant boundary.

(6) The boundary follows the Little Temecula Land Grant boundary southeasterly to its intersection with the boundary of that portion of the Pechanga Indian Reservation which, until 1907, was Lot ''E'' of the Little Temecula Land Grant.

(7) The boundary follows the Pechanga Indian Reservation boundary southeasterly, then northeasterly (including that portion of the Penchanga Indian Reservation in the approved viticultural area) to the point at which it rejoins the Little Temecula Land Grant boundary.

(8) The boundary follows the Little Temecula Land Grant boundary northeasterly to its intersection with the Pauba Land Grant boundary.

(9) The boundary follows the Pauba Land Grant boundary southeasterly, then northeasterly, to the north-south section line dividing Section 23 from Section 24 in Township 8 South, Range 2 West.

(10) The boundary follows this section line south to the 1500-foot contour line.

(11) The boundary follows the 1500-foot contour line easterly to the range line dividing Range 2 West from Range 1 West.

(12) The boundary follows this range line north, across California State Highway 71/79, to the 1400-foot contour line of Oak Mountain.

(13) The boundary follows the 1400-foot contour line around Oak Mountain to its intersection with the 117°00′ West longitude meridian.

(14) The boundary follows the 117°00′ West longitude meridian north to its intersection with the Pauba Land Grant boundary.

(15) The boundary follows the Pauba Land Grant boundary northwesterly, then west, then south, then west, to Warren Road (which coincides with the range line dividing Range 1 West from Range 2 West).

(16) The boundary follows Warren Road north to an unnamed east-west, light-duty, hard or improved surface road (which coincides with the section line dividing Section 12 from Section 13 in Township 7 South, Range 2 West).

(17) The boundary follows this road west to the north-south section line dividing Section 13 from Section 14 in Township 7 South, Range 2 West.

(18) The boundary follows this section line south to its intersection with Buck Road (which coincides with the east-west section line on the southern edge of Section 14 in Township 7 South, Range 2 West).

(19) The boundary follows Buck Road west to the point where it diverges northwesterly from the section line on

the southern edge of Section 14 in Township 7 South, Range 2 West.

(20) The boundary follows this section line west, along the southern edges of Sections 14, 15, 16, 17, and 18 in Township 7 South, Range 2 West, to Tucalota Creek.

(21) The boundary follows Tucalota Creek southerly to Santa Gertrudis Creek.

(22) The boundary follows Santa Gertrudis Creek southwesterly to Murrieta Creek.

(23) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Hayes Avenue, northwest of Murrieta, California.

(24) The boundary follows Hayes Avenue northwesterly, approximately 4,000 feet, to its terminus at an unnamed, unimproved, fair or dry weather road.

(25) The boundary follows this road southwesterly to Murrieta Creek.

(26) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Orange Street in Wildomar, California.

(27) From the intersection of Murrieta Creek and Orange Street in Wildomar, California, the boundary proceeds in a straight line to the beginning point.

(d) From November 23, 1984, until June 17, 2004, the name of this viticultural area was ''Temecula''. Effective June 18, 2004, this viticulture area is named ''Temecula Valley''. Existing certificates of label approval showing ''Temecula'' as the appellation of origin will be revoked by operation of this regulation on June 19, 2006.

[T.D. ATF–188, 49 FR 42566, Oct. 23, 1984; 49 FR 43455, Oct. 29, 1984, as amended by T.D. ATF–221, 51 FR 750, Jan. 8, 1986; T.D. ATF–249, 52 FR 5958, Feb. 27, 1987; T.D. TTB–10, 69 FR 20825, Apr. 19, 2004]

## § 9.51 Isle St. George.

(a) *Name.* The name of the viticultural area described in this section is ''Isle St. George.''

(b) *Approved maps.* The approved map for determining the boundary of the Isle St. George viticultural area is the U.S.G.S. quadrangle map, ''Put-in-Bay, Ohio'', 7.5 minute series, edition of 1969.

(c) *Boundaries.* The Isle St. George viticultural area is located entirely within Ottawa County, Ohio. The boundary of the Isle St. George viticultural area is the shoreline of the island named ''North Bass Island'' on the ''Put-in-Bay, Ohio'' U.S.G.S. map, and the viticultural area comprises the entire island.

[T.D. ATF–110, 47 FR 36421, Aug. 20, 1982]

## § 9.52 Chalk Hill.

(a) *Name.* The name of the viticultural area described in this section is ''Chalk Hill.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chalk Hill viticultural area are the U.S.G.S. topographic maps titled:

''Mark West Springs Quadrangle, California'', 7.5 minute series, 1958; and,

''Healdsburg Quadrangle, California'', 7.5 minute series, 1955 (Photorevised 1980).

(c) *Boundary.* The Chalk Hill viticultural area is located near the town of Windsor in Sonoma County, California. From the beginning point on the south line of Section 2, Township 8 North (T. 8 N.), Range 9 West (R. 9 W.) at the intersection of Arata Lane and Redwood Highway (a.k.a. Old Highway 101), on the ''Healdsburg Quadrangle'' map, the boundary proceeds—

(1) Southeasterly along Redwood Highway through Section 11, T. 8 N., R. 9 W., to the point of intersection with Windsor River Road;

(2) Then westerly along Windsor River Road on the south boundary of Section 11, T. 8 N., R. 9 W., to the point of intersection with Starr Road;

(3) The southerly along Starr Road to the point of intersection with the south line of Section 14, T. 8 N., R. 9 W.;

(4) Then easterly along the south line of Sections 14 and 13, T. 8 N., R. 9 W. and Section 18, T. 8 N., R. 8 W., to the point of intersection with the Redwood Highway;

(5) Then southeasterly along the Redwood Highway to the intersection with an unnamed road that intersects the Redwood Highway at a right angle from the northeast near the southwest corner of Section 28 near Mark West Creek, T. 8 N., R. 8 W.;

(6) Then northeast approximately 500 feet along the unnamed road to its intersection with the Pacific Gas and Electric power transmission line;

(7) Then northeast approximately 1,000 feet along the power transmission line (paralleling the unnamed road) to the point where the power transmission line turns in a northerly direction;

(8) Then in a northerly direction along the power transmission line to the point of its intersection with the south line of Section 17, T. 8 N., R. 8 W.;

(9) Then east along the south line of Sections 17, 16 and 15, T. 8 N., R. 8 W. to the point of intersection with Mark West Road on the ''Mark West Quadrangle Map'';

(10) Then northerly for approximately 1.3 miles along Mark West Road (which becomes Porter Creek Road), then northeasterly for approximately 1.7 miles on Porter Creek Road to its intersection with the unnamed medium duty road that parallels Porter Creek in Section 12, T. 8 N., R. 8 W.; then northeasterly on the Franz Valley Road over the Tarwater Grade and continuing along the Franz Valley Road for approximately 3 miles to its intersection with Franz Creek (approximately 2,000 feet west of the range line common to R. 7 W. and R. 8 W. in T. 9 N. and approximately 1,150 feet north of the north line of Section 25, T. 9 N., R. 8 W.);

(11) Then westerly along Franz Creek to its point of intersection with the east line of Section 21, T. 9 N., R. 8 W.;

(12) Then southerly along the east line of Section 21 to the southeast corner thereof;

(13) Then southerly, approximately 0.08 mile, along the west line of section 27, T. 9 N., R. 8 W., to the point at which an unnamed unimproved road which parallels the south bank of Martin Creek intersects the west line of section 27, T. 9 N., R. 8 W.;

(14) Then southeasterly, approximately 1.07 miles, along said road to the point at which the road is crossed by the east line of section 27, T. 9 N., R. 8 W.;

(15) Then southerly, approximately 0.65 mile, along the east lines of sections 27 and 34, T. 9 N., R. 8 W., to the point in the northeast corner of section 34, T. 9 N., R. 8 W. where the north fork of Barnes Creek intersects such line in section 34, T. 9 N., R. 8 W.;

(16) Then continuing along the north fork of Barnes Creek, approximately 0.5 mile, in a generally westerly direction to a small dwelling at the eastern terminus of an unnamed unimproved road (known locally as the access to the Shurtleff Ranch) in section 34, T. 9 N., R. 8 W.;

(17) Then continuing in a generally westerly direction, approximately 1.4 miles, along the unnamed unimproved road (known locally as the access to the Shurtleff Ranch) to its intersection with an unnamed unimproved road (known locally as Spurgeon Road) in section 33, T. 9 N., R. 8 W. on the Healdsburg, California, Quadrangle Map;

(18) Then westerly, approximately 0.45 mile, along the unnamed unimproved road (known locally as Spurgeon Road) to the point where the road intersects Chalk Hill Road in section 32, T. 9 N., R. 8 W.;

(19) Then in a generally northwesterly direction, approximately 1.3 miles, along Chalk Hill Road to the point where Chalk Hill Road crosses Brooks Creek in section 29, T. 9 N., R. 8 W.;

(20) Then north in a straight line, approximately 0.2 mile, to the top of a peak identified as Chalk Hill;

(21) Then west-northwesterly in a straight line to the confluence of Brooks Creek and the Russian River;

(22) Then westerly along the Russian River to the point of intersection with the range line common to R. 8 W. and R. 9 W. in T. 9 N.;

(23) Then southwesterly in a straight line to the point of a hill identified as having an elevation of 737 feet;

(24) Then south-southwesterly in a straight line to the point at the easterly terminus of Reiman Road;

(25) Then southwesterly in a straight line to the point at the intersection of the township line common to T. 8 N. and T. 9 N. in R. 9 W. and the frontage road (a.k.a. Los Amigos Road) for U.S. Highway 101;

(26) Then west approximately 3,000 feet along the township line common to T. 8 N. and T. 9 N. in R. 9 W.;

(27) Then southerly for approximately 2,000 feet in a straight line to the point of intersection with an unnamed stream drainage;

(28) Then east in a straight line to the point of intersection with Eastside Road;

(29) Then northeasterly along Eastside Road to the point of intersection with Redwood Highway;

(30) Then southeasterly along Redwood Highway to the point of beginning.

[T.D. ATF–155, 48 FR 48812, Oct. 21, 1983, as amended by T.D. ATF–272, 53 FR 17023, May 13, 1988]

### § 9.53 Alexander Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Alexander Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Alexander Valley viticultural area are seven U.S.G.S. maps entitled:

(1) ''Mark West Springs Quadrangle, California,'' 7.5 minute series, 1958;

(2) ''Mount St. Helena Quadrangle, California,'' 7.5 minute series, 1959;

(3) ''Jimtown Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955 (Photorevised 1975);

(4) ''Geyserville Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955 (Photorevised 1975);

(5) ''Healdsburg Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955;

(6) ''Asti Quadrangle, California,'' 7.5 minute series, 1959 (Photorevised 1978); and

(7) ''Cloverdale Quadrangle, California,'' 7.5 minute series, 1960.

(c) *Boundaries.* The Alexander Valley viticultural area is located in northeastern Sonoma County, California. From the beginning point at the northeast corner of Section 32, Township 12 North (T. 12 N.), Range 10 West (R. 10 W.), on the Asti Quadrangle map, the boundary runs—

(1) West along the north line of Sections 32 and 31, T. 12 N., R. 10 W., and Sections 36, 35, and 34, T. 12 N., R. 11 W., to the northwest corner of Section 34, on the Cloverdale Quadrangle map;

(2) Then south along the west line of Section 34 to the southwest corner thereof;

(3) Then east southeasterly in a straight line to the southeast corner of section 2, T. 11 N., R. 11 W.;

(4) Then south southeasterly in a straight line to the southeast corner of section 24, T. 11 N., R. 11 W.;

(5) Then southeasterly in a straight line across sections 30, 31 and 32, T. 11 N., R. 10 W., to the point at 38°45′ N. latitude and 123°00′ E. longitude in section 5, T. 10 N., R. 10 W.;

(6) Then southeasterly in a straight line approximately 11,000 feet (closely following the ridge line) to the northwest corner of Section 10, T. 10 N., R.10 W. on the Geyserville Quadrangle map;

(7) [Reserved]

(8) Then southerly along the west line of Section 10, T. 10 N., R. 10 W.;

(9) Then S. 74 degrees, E. 2,800 feet in a straight line to the northeasterly tip of a small lake;

(10) Then N. 57 degrees, E. 2,300 feet in a straight line to the southeast corner of Section 10, T. 10 N., R. 10 W.;

(11) Then S. 16 degrees, E. 1,800 feet in a straight line to the point on a peak identified as having an elevation of 664 feet;

(12) Then S. 55 degrees, E. 7,900 feet in a straight line to the most northerly point on the northeasterly line of ''Olive Hill'' Cemetery, lying on the easterly side of a light-duty road identified as Canyon Road;

(13) Then southeasterly along the northeasterly line of ''Olive Hill'' cemetery to most easterly point thereon;

(14) Then southerly 3,000 feet along the meanders of the west fork of Wood Creek to the point lying 400 feet north of the point on a peak identified as having an elevation of 781 feet;

(15) Then southerly 400 feet in a straight line to the point on a peak identified as having an elevation of 781 feet;

(16) Then S. 50½ degrees, E. 15,200 feet in a straight line to the point lying at the intersection of Lytton Creek with the township line common to T. 9 N. and T. 10 N. in R. 9 W.;

(17) Then southerly along the meanders of Lytton Creek to the point of intersection with a light-duty road identified as Lytton Springs Road in T. 9 N., R. 9 W.;

(18) Then easterly along Lytton Springs Road to the point of intersection with a heavy-duty road identified as U.S. Highway 101 (a.k.a. Redwood Highway), on the Jimtown Quadrangle map;

(19) Then southerly along U.S. Highway 101 to the point of intersection with an unnamed light-duty road (known locally as Chiquita Road), on the Geyserville Quadrangle map;

(20) Then easterly along the unnamed light-duty road to the point of intersection with an unnamed heavy-duty road (known locally as Healdsburg Avenue), on the Jimtown Quadrangle map;

(21) Then southeasterly in a straight line approximately 11,000 feet to the 991-foot peak of Fitch Mountain;

(22) Then east southeasterly approximately 7,000 feet in a straight line to the peak identified as having an elevation of 857 feet;

(23) Then east southeasterly approximately 1,750 feet to the peak identified as Black Peak;

(24) Then southeasterly approximately 7,333 feet to the peak identified as having an elevation of 672 feet;

(25) Then northeasterly approximately 5,000 feet in a straight line to the point of confluence of Brooks Creek with the Russian River in T. 9 N., R. 8 W., on the Healdsburg Quadrangle map;

(26) Then east-southeasterly 2,400 feet in a straight line to the top of a peak identified as Chalk Hill;

(27) Then south from said peak, in a straight line, approximately 0.2 mile to the point where Chalk Hill Road crosses Brooks Creek (on the Healdsburg Quadrangle map);

(28) Then southeasterly, approximately 1.3 miles, along the roadbed of Chalk Hill Road to the point near the confluence of Brooks Creek and Barnes Creek where Chalk Hill Road intersects an unnamed unimproved road (known locally as Spurgeon Road) that parallels Barnes Creek in section 32, T. 9 N., R. 8 W.;

(29) Then easterly, approximately 0.45 mile, along said road (known locally as Spurgeon Road) to the point where the road is intersected by an unnamed unimproved road (known locally as the access to the Shurtleff Ranch) in section 33, T. 9 N., R. 8 W.;

(30) Then continuing along the unnamed unimproved road (known locally as the access to the Shurtleff Ranch), approximately 1.33 miles, in a generally easterly direction, to the eastern terminus of said road at a small dwelling along the north fork of Barnes Creek in section 34, T. 9 N., R. 8 W. on the Mark West Springs, California, Quadrangle map;

(31) Then easterly along the north fork of Barnes Creek, approximately 0.5 mile, to the point in the northeast corner of section 34, T. 9 N., R. 8 W. where the north fork of Barnes Creek intersects the east line of section 34, T. 9 N., R. 8 W.;

(32) Then north, approximately 0.65 mile, along the east lines of sections 34 and 27, T. 9 N., R. 8 W., to the point at which an unnamed unimproved road which parallels the south bank of Martin Creek intersects the eastern border of section 27, T. 9 N., R. 8 W.;

(33) Then in a generally northwesterly direction, approximately 1.07 miles, along said road to the point at which the road is crossed by the west line of section 27, T. 9 N., R. 8 W.;

(34) Then north, approximately 0.08 mile, along the west line of section 27, T. 9 N., R. 8 W., to the southeast corner of section 21, T. 9 N., R. 8 W.;

(35) Then northerly along the east line of Sections 21, 16, and 9, T. 9 N., R. 8 W. to the northeast corner of Section 9, on the Mount St. Helena Quadrangle map;

(36) Then westerly along the north line of Section 9 to the northwest corner thereof, on the Jimtown Quadrangle map;

(37) Then northerly along the western lines of section 4, of T. 9 N, R. 8 W., and sections 33, 28, 21, 16, and 9 of T. 10 N., R. 8 W.;

(38) Then westerly along the northern lines of section 8 and 7, T. 10 N., R. 8 W. and section 12, T. 10 N., R. 9 W. to the southeastern corner of section 2, T. 10 N., R. 9 W.;

(39) Then northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, T. 10 N., R. 9 W.;

(40) Then westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude;

(41) Then northwesterly in a straight line to the southeast corner of section 4, T. 11 N., R. 10 W., on the Asti, Quadrangle map;

(42) Then northeasterly in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

(43) Then north along the east boundary of section 34, T. 12 N., R. 10 W., to the northeast corner of section 34, T. 12 N., R. 10 W.;

(44) Then west along the north boundaries of sections 34 and 33, T. 12 N., R. 10 W., to the point of beginning.

[T.D. ATF–187, 49 FR 42724, Oct. 24, 1984, as amended by T.D. ATF–233; 51 FR 30354, Aug. 26, 1986; T.D. ATF–272, 53 FR 17025, May 13, 1988; T.D. ATF–300, 55 FR 32402, Aug. 9, 1990; T.D. ATF–468, 66 FR 50565, Oct. 4, 2001]

EFFECTIVE DATE NOTE: At 73 FR 12877, Mar.11, 2008, §9.53 was amended by revising the heading of paragraph (c), revising paragraph (c)5), redesignating paragraphs (c)(6) through (c)(44) as (c)(9) through (c)(47), and adding new paragraphs (c)(6) through (c)(8), effective Apr. 10, 2008. For the convenience of the user, the added and revised text is set forth as follows:

**§ 9.53 Alexander Valley.**

* * * * *

(c) Boundary.

* * * * *

(5) Then straight south along the eastern boundary line of Section 25, to its intersection with Kelly Road, a medium-duty road, T. 11 N., R. 11 W.;

(6) Then southwest along Kelly Road to its intersection with the northern boundary line of Section 36, T. 11 N., R. 11 W.;

(7) Then straight south to its intersection with 38° 45′ N. latitude along the southern border of the Cloverdale Quadrangle map, T. 10 N., R. 11 W. and R. 10 W.;

(8) Then straight east to its intersection with 123° 00′ E. longitude at the southeastern corner of the Cloverdale Quadrangle map, T. 10 N., R. 10 W.;

* * * * *

**§ 9.54 Santa Ynez Valley.**

(a) *Name.* The name of the viticultural area described in this section is ''Santa Ynez Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Santa Ynez Valley viticultural area are 12 U.S.G.S. quadrangle maps. They are entitled:

(1) ''Figueroa Mountain, Cal.'', 7.5 minute series, edition of 1959;

(2) ''Foxen Canyon, Cal.'', 7.5 minute series, edition of 1964;

(3) ''Lake Cachuma, Cal.'', 7.5 minute series, edition of 1959;

(4) ''Lompoc, Cal.'', 7.5 minute series, edition of 1959 (photorevised 1974);

(5) ''Lompoc Hills, Cal.'', 7.5 minute series, edition of 1959;

(6) ''Los Alamos, Cal.'', 7.5 minute series, edition of 1959;

(7) ''Los Olivos, Cal.'', 7.5 minute series, edition of 1959 (photoinspected 1974);

(8) ''Santa Rosa Hills, Cal.'', 7.5 minute series, edition of 1959;

(9) ''Santa Ynez, Cal.'', 7.5 minute series, edition of 1959 (photorevised 1974);

(10) ''Solvang, Cal.'', 7.5 minute series, edition of 1959 (photorevised 1974);

(11) ''Zaca Creek, Cal.'', 7.5 minute series, edition of 1959; and

(12) ''Zaca Lake, Cal.'', 7.5 minute series, edition of 1964.

(c) *Boundaries.* The Santa Ynez Valley viticultural area is located within Santa Barbara County, California. The beginning point is found on the ''Los Alamos, California'' U.S.G.S. map where California Highway 246 (indicated as Highway 150 on the Los Alamos map) intersects with the 120°22′30″ longitude line.

(1) Then north following the 120°22′30″ longitude line to Cebada Canyon Road.

(2) Then northeast following Cebada Canyon Road and an unnamed jeep trail to the northern boundary of Section 9, T. 7 N., R. 33 W.

(3) Then east following the northern boundaries of Sections 9, 10, 11, 12, 7, and 8 to the northeast corner of Section 8, T. 7 N., R. 33 W.

(4) Then south following the eastern boundaries of Sections 8 and 17 to the intersection with the boundary dividing the La Laguna and San Carlos de Jonata Land Grants.

(5) Then east following the boundary between the La Laguna and the San Carlos de Jonata Land Grants to the intersection with Canada de Santa Ynez.

(6) Then northeast in a straight line for approximately 3.6 miles to Benchmark 947 at U.S. Highway 101.

(7) Then northeast in a straight line for approximately 2.6 miles to the southwest corner of the La Zaca Land Grant.

(8) Then following the boundary of the La Zaca Land Grant north, then east to its northeast corner.

(9) Then east in a straight line for approximately 2.0 miles to the point of intersection of the La Laguna and Sisquoc Land Grants with the Los Padres National Forest.

(10) Then following the boundary of the Los Padres National Forest south, east, and south until it intersects with the eastern boundary of Section 29, T. 7 N., R. 29 W.

(11) Then south following the eastern boundaries of Sections 29, 32, 5, 8, and 17 to the boundary of the Cachuma Recreation Area at Bitt Benchmark 1074.

(12) Then following the boundary of the Cachuma Recreation Area west and south to the point of intersection with the Los Padres National Forest.

(13) Then south and west following the boundary of the Los Padres National Forest to its intersection with the Las Cruces Land Grant at the southwest corner of Section 12, T. 5 N., R. 32 W.

(14) Then north following the boundary of the Las Cruces Land Grant to the southeast corner of Section 26, T. 6 N., R. 32 W.

(15) Then west following the southern boundaries of Sections 26, 27, 28, and 29 to the intersection with the northern boundary of the San Julian Land Grant at the southwestern corner of Section 29, T. 6 N., R. 32 W.

(16) Then northwest following the boundary of the San Julian Land Grant to its intersection with the 120°22′30″ longitude line.

(17) Then northwest in a straight line for approximately 3.2 miles to the point where Santa Rosa Road intersects Salsipuedes Creek.

(18) Then following Salsipuedes Creek downstream to the point of confluence with the Santa Ynez River.

(19) Then northeast in a straight line for approximately 1.4 miles to an unnamed hill, elevation 597 feet.

(20) Then northeast in a straight line for approximately 1.7 miles to the point of beginning.

[T.D. ATF–132, 48 FR 16252, Apr. 15, 1983]

## §9.55 Bell Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Bell Mountain.''

(b) *Approved map.* The appropriate map for determining the boundaries of the Bell Mountain viticultural area is one U.S.G.S. map, titled: Willow City Quadrangle, 7.5 minute series, 1967.

(c) *Boundary*—(1) *General.* The Bell Mountain viticultural area is located in Gillespie County, Texas. The starting point of the following boundary description is the summit of Bell Mountain (1,956 feet).

(2) *Boundary Description.* (i) From the starting point, the boundary proceeds due southward for exactly one half mile;

(ii) Then southeastward in a straight line to the intersection of Willow City Loop Road with an unnamed unimproved road, where marked with an elevation of 1,773 feet;

(iii) Then generally southward along Willow City Loop Road (a light-duty road) to Willow City.

(iv) Then continuing southward and westward along the same light-duty road to the intersection having an elevation of 1,664 feet;

(v) Then continuing westward along the light-duty road to the intersection having an elevation of 1,702 feet;

(vi) Then turning southward along the light-duty road to the intersection having an elevation of 1,736 feet;

(vii) Then turning westward along the light-duty road to the intersection having an elevation of 1,784 feet;

(viii) Then turning southward and then westward, following the light-duty road to its intersection with Texas Highway 16, where marked with an elevation of 1,792 feet;

(ix) Then due westward to the longitude line 98°45′;

(x) Then northward along that longitude line to a point due west of an unnamed peak with an elevation of 1,784 feet;

(xi) Then due eastward to the summit of that unnamed peak;

(xii) Then in a straight line eastward to the intersection of an unnamed unimproved road with Texas Highway 16, where marked with an elevation of 1,822 feet;

(xiii) Then following that unnamed road, taking the right-hand fork at an intersection, to a point due west of the summit of Bell Mountain;

(xiv) Then due eastward to the summit of Bell Mountain.

[T.D. ATF–238, 51 FR 36400, Oct. 10, 1986]

## § 9.56 San Lucas.

(a) *Name.* The name of the viticultural area described in this section is ''San Lucas.''

(b) *Approved maps.* The appropriate maps for determining the boundary of San Lucas viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series:

San Lucas, CA, 1949, photorevised 1979,
Nattrass Valley, CA, 1967,
San Ardo, CA, 1967, and,
Espinosa Canyon, CA, 1949, photorevised 1979.

(c) *Boundary.* The San Lucas viticultural area is located in Monterey County in the State of California. The boundary is as follows:

Beginning on the ''San Lucas Quadrangle'' map at the northwest corner of section 5 in Township 21 South, Range 9 East, the boundary proceeds northeasterly in a straight line approximately 0.35 mile to the 630-foot promontory in section 32, T. 20 S., R. 9 E.;

(1) Then east southeasterly in a straight line approximately 0.6 mile to the 499-foot promontory in the southwest corner of section 33, T. 20 S., R. 9 E.;

(2) Then east southeasterly in a straight line approximately 1.3 miles to the 847-foot promontory in section 3, T. 21 S., R. 9 E., on the ''Nattrass Valley Quadrangle'' map;

(3) Then south southeasterly in a straight line approximately 2.2 miles to the 828-foot promontory in section 14, T. 21 S., R. 9 E., on the ''San Ardo Quadrangle'' map;

(4) Then east southeasterly in a straight line approximately 1.3 miles to the 868-foot promontory in section 13, T. 21 S., R. 9 E.;

(5) Then southeasterly in a straight line approximately 0.94 mile to the 911-foot promontory in section 19, T. 21 S., R. 10 E.;

(6) Then easterly in a straight line approximately 1.28 miles to the 1,042-foot promontory in section 20, T. 21 S., R. 10 E.;

(7) Then east northeasterly in a straight line approximately 1.28 miles to the 998-foot promontory in southeast corner of section 16, T. 21 S., R. 10 E.;

(8) Then southerly in a straight line approximately 2.24 miles to the 1,219-foot promontory near the east boundary of section 28, T. 21 S., R. 10 E.;

(9) Then southwesterly in a straight line approximately 1.5 miles to the 937-foot promontory near the north boundary of section 32, T. 21 S., R. 10 E.;

(10) Then southwesterly in a straight line approximately 0.34 mile to the 833-foot promontory in section 32, T. 21 S., R. 10 E.;

(11) Then south southeasterly in a straight line approximately 0.5 mile to the 886-foot ''Rosenberg'' promontory in section 32, T. 21 S., R. 10 E.;

(12) Then south southeasterly approximately 1.1 miles to the 781-foot promontory in section 5, T. 22 S., R. 10 E.;

(13) Then southeasterly in a straight line approximately 0.7 mile to the 767-foot promontory in section 9, T. 22 S., R. 10 E.;

(14) Then southerly in a straight line approximately 0.5 mile to the 647-foot promontory along the south boundary of section 9, T. 22 S., R. 10 E.;

(15) Then southwesterly in a straight line approximately 2.67 miles to the 835-foot promontory in section 19, T. 22 S., R. 10 E.;

(16) Then west southwesterly in a straight line approximately 1.1 miles to the 1,230-foot promontory in section 24, T. 22 S., R. 9 E.;

(17) Then north northwesterly in a straight line approximately 1.4 miles to the 1,149-foot promontory in section 14, T. 22 S., R. 9 E.;

(18) Then northwesterly in a straight line approximately 0.57 mile to the 1,128-foot promontory in section 11, T. 22 S., R. 9 E.;

(19) Then west southwesterly in a straight line approximately 0.58 mile to the 1,220-foot promontory near the north boundary of section 15, T. 22 S., R. 9 E.;

(20) Then northwesterly in a straight line approximately 1.33 miles to the 1,071-foot promontory in the northwest corner of section 9, T. 22 S., R. 9 E.;

(21) Then northwesterly in a straight line approximately 2.82 miles to the 1,004-foot promontory in section 31, T. 21 S., R. 9 E., on the ''Espinosa Canyon Quadrangle'' map;

(22) Then north northwesterly in a straight line approximately 1.32 miles to the 882-foot promontory in section 25, T. 21 S., R. 8 E.;

(23) Then northwesterly in a straight line approximately 1.05 miles to the 788-foot promontory in section 23, T. 21 S., R. 8 E.;

(24) Then northeasterly approximately 1.3 miles to the 595-foot promontory, section 13, T21S, R8E (Espinosa Canyon Quadrangle);

(25) Then northeasterly approximately 0.6 mile to the intersection of a meandering, unnamed, light duty road and the fork of an intermittent stream, then continue meandering northeasterly, followed by southeasterly, approximately 1.1 miles to its intersection with an unnamed, light duty road south of the windmill, T21, R8E (Espinosa Canyon Quadrangle);

(26) Then northeasterly along the unnamed road approximately 0.6 mile to its intersection with the Salinas River, then continue 0.8 mile north in a straight line to benchmark 340, between U.S. Highway 101 and the Salinas River, in T21S, R9E (San Lucas Quadrangle);

(27) Then approximately 0.4 mile northwesterly in a straight line to the intersection with a water tank, then continues northeasterly in a straight line approximately 0.7 mile, and return to the point of beginning in the northwest corner of section 5, in T21S, R9E (San Lucas Quadrangle).

[T.D. ATF–248, 52 FR 2945, Jan. 29, 1987, as amended by T.D. TTB–14, 69 FR 38836, June 29, 2004]

### §9.57 Green Valley of Russian River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Green Valley of Russian River Valley''. For purposes of part 4 of this chapter, ''Green Valley of Russian River Valley'' is a term of viticultural significance. ''Sonoma County Green Valley'' is also a term of viticultural significance until April 23, 2009.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Green Valley of Russian River Valley viticultural area are three United States Geological Survey maps. They are titled:

(1) ''Sebastopol Quadrangle, California—Sonoma Co.'', 7.5 minute series (1954, photorevised 1980);

(2) ''Camp Meeker Quadrangle, California—Sonoma Co.'', 7.5 minute series (1954, photorevised 1971); and

(3) ''Guerneville Quadrangle, California—Sonoma Co.'', 7.5 minute series (1955).

(c) *Boundary.* The Green Valley of Russian River Valley viticultural area is located in Sonoma County, California. The beginning point is located in the northeastern portion of the ''Camp Meeker Quadrangle'' map where the line separating Section 31 from Section 32, in Township 8 North (T.8N.), Range 9 West (R.9W.) intersects River Road.

(1) From the beginning point, the boundary runs south along the line separating Section 31 from Section 32, continuing south along Covey Road (shown on the map as an unnamed, light-duty road) to the town of Forestville where Covey Road intersects with State Highway 116 (Gravenstein Highway).

(2) Thence east along State Highway 116 until it turns in a southeasterly direction and then proceeding along State Highway 116 in a southeasterly direction until the point at which State Highway 116 intersects State Highway 12 in the town of Sebastopol (located on the ''Sebastopol Quadrangle'' map);

(3) Thence in a southwesterly direction on State Highway 12 through the town of Sebastopol;

(4) Thence in a westerly direction on State Highway 12, which becomes Bodega Road, until Bodega Road intersects with Pleasant Hill Road;

(5) Thence in a southerly direction on Pleasant Hill Road until it intersects with Water Trough Road;

(6) Thence westerly and then northwesterly on Water Trough Road until it intersects with Gold Ridge Road;

(7) Thence in a southwesterly, northwesterly, and then a northeasterly direction along Gold Ridge Road until it intersects with Bodega Road;

(8) Thence in a southwesterly direction along Bodega Road until Bodega Road intersects with Jonive Road in Township 6 North (T.6N.), Range 9 West (R.9W.) located in the southeast portion of U.S.G.S. map ''Camp Meeker Quadrangle'';

(9) Thence proceeding in a northwesterly direction on Jonive Road until it intersects Occidental Road;

(10) Thence proceeding on Occidental Road in a northwesterly direction until Occidental Road intersects the west border of Section 35;

(11) Thence proceeding due north along the west borders of Sections 35, 26, 23, and 14 to the northwest corner of Section 14;

(12) Thence in an easterly direction along the north border of Section 14 to the northeast corner of Section 14;

(13) Thence north along the west borders of Sections 12, 1, and 36 to the northwest corner of Section 36 located in the extreme southern portion of the ''Guerneville Quadrangle'' map;

(14) Thence in an easterly direction along the north border of Section 36 until it intersects with River Road;

(15) Thence in a southeasterly direction along River Road to the point of

beginning located on the ''Camp Meeker Quadrangle'' map.

(d) From December 21, 1983, until April 23, 2007, the name of this viticultural area was ''Sonoma County Green Valley''. Effective April 23, 2007, this viticulture area is named ''Green Valley of Russian River Valley''. Existing certificates of label approval showing ''Sonoma County Green Valley'' as the appellation of origin will be revoked by operation of this regulation on April 23, 2009.

[T.D. ATF–161, 48 FR 52579, Nov. 21, 1983, as amended by T.D. TTB–60, 72 FR 13692, Mar. 23, 2007]

### § 9.58 Carmel Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Carmel Valley.''

(b) *Approved maps.* The approved maps for determining the boundary of the Carmel Valley viticultural area are five U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Mt. Carmel, Calif., dated 1956;

(2) Carmel Valley, Calif., dated 1956;

(3) Ventana Cones, Calif., dated 1956;

(4) Chews Ridge, Calif., dated 1956; and

(5) Rana Creek, Calif., dated 1956.

(c) *Boundary.* The Carmel Valley viticultural area is located in Monterey County, California. The boundary is as follows:

(1) The beginning point is the northeast corner of Section 5 in Township 17 South, Range 2 East.

(2) The boundary follows the Los Laurelles Land Grant boundary south, then easterly, to the north-south section line dividing Section 9 from Section 10 in Township 17 South, Range 2 East.

(3) The boundary follows this section line south to the southwest corner of Section 22 in Township 17 South, Range 2 East.

(4) From this point, the boundary follows section lines in Township 17 South, Range 2 East:

(i) To the southeast corner of Section 22,

(ii) To the southwest corner of Section 26,

(iii) To the southeast corner of Section 26,

(iv) To the southwest corner of Section 36.

(5) From this point, the boundary follows the Los Padres National Forest boundary east, then south, then east to the southwest corner of Section 9 in Township 18 South, Range 3 East.

(6) The boundary follows the section line east to the southeast corner of the same section, where the section line rejoins the Los Padres National Forest boundary.

(7) The boundary follows the Los Padres National Forest boundary to the north-south section line dividing Section 11 from Section 12 in Township 18 South, Range 3 East.

(8) The boundary follows this section line north to the township line dividing Township 17 South from Township 18 South.

(9) The boundary follows this township line west to the north-south section line dividing Section 34 from Section 35 in Township 17 South, Range 3 East.

(10) The boundary follows this section line north to the Los Tularcitos Land Grant boundary.

(11) The boundary follows the Los Tularcitos Land Grant boundary northwesterly to the Carmel River.

(12) The boundary follows the Carmel River northerly to the Los Tularcitos Land Grant boundary.

(13) The boundary follows the Los Tularcitos Land Grant boundary northeasterly to the unsurveyed township line (approximate location denoted by a line of red dashes) dividing Township 16 South form Township 17 South.

(14) The boundary follows the unsurveyed township line west to the beginning point.

[T.D. ATF–119, 47 FR 55916, Dec. 14, 1982]

### § 9.59 Arroyo Seco.

(a) *Name.* The name of the viticultural area described in this section is ''Arroyo Seco.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Arroyo Seco viticultural area are four U.S.G.S. quadrangle maps. They are entitled:

(1) ''Greenfield, California,'' 7.5 minute series, edition of 1956;

(2) ''Paraiso Springs, California,'' 7.5 minute series, edition of 1956;

(3) ''Soledad, California,'' 7.5 minute series, edition of 1955; and

(4) ''Sycamore Flat, California,'' 7.5 minute series, edition of 1956 (photoinspected 1972).

(c) *Boundaries.* The Arroyo Seco viticultural area is located in Monterey County, California. The beginning point is found on the ''Sycamore Flat'' U.S.G.S. map at the junction of Arroyo Seco Road and the Carmel Valley Road (indicated as the Jamesburg Road on the map).

(1) Then east following Arroyo Seco Road to the southwest corner of Section 22, T. 19 S., R. 5 E.

(2) Then east following the southern boundaries of Sections 22, 23, 24, 19, and 20 to the southeastern corner of Section 20, T. 19 S., R. 6 E.

(3) Then northeast in a straight line for approximately 1.3 miles to the summit of Pettits Peak.

(4) Then northeast in a straight line for approximately 1.8 miles to the point where the 400′ contour line intersects the northern boundary of Section 14, T. 19 S., R. 6 E.

(5) Then east following the 400′ contour line to a point immediately west of the Reservoir within the Posa de los Ositos Land Grant.

(6) Then following the ridge line in a northeasterly direction for approximately 7.5 miles to U.S. Highway 101 at the intersection of Underwood Road.

(7) Then east following Underwood Road to its intersection with the Posa de los Ositos Land Grant.

(8) Then north following the boundary of the Posa de los Ositos Land Grant to the west bank of the Salinas River.

(9) Then northwest following the west bank of the Salinas River to the southern boundary of Section 17, T. 18 S., R. 7 E.

(10) Then due west for approximately 2.0 miles following the southern boundary of Section 17, and continuing to U.S. Highway 101.

(11) Then following U.S. Highway 101 in a northwesterly direction to its intersection with Paraiso Road.

(12) Then south following Paraiso Road to the intersection with Clark Road.

(13) Then east-northeasterly along Clark Road for approximately 1,000 feet to its intersection with an unnamed light-duty road to the south.

(14) Then in a straight south-southeasterly line for approximately 1.9 miles to the line's intersection with the southeast corner of section 33, T18S, R6E (this line coincides with the unnamed light duty road for approximately 0.4 miles and then with the eastern boundaries of sections 29, 32 and 33, T18S, R6E, which mark this portion of the western boundary of the historical Arroyo Seco Land Grant).

(15) Then straight west along the southern boundary of section 33, T18S, R6E, to its southwest corner.

(16) Then due south following the eastern boundaries of Sections 5, 8, and 17, to Arroyo Seco Road.

(17) Then southwest in a straight line for approximately 1.0 mile to Bench Mark 673.

(18) Then west in a straight line for approximately 1.8 miles to Bench Mark 649.

(19) Then northwest in a straight line for approximately 0.2 mile to the northeast corner of Section 23, T. 19 S., R. 5 E.

(20) Then west following the northern boundaries of Section 23 and 22 to the northwest corner of Section 22, T. 19 S., R. 5 E.

(21) Then south in a straight line for approximately 1.0 mile to the point of beginning.

[T.D. ATF–131, 48 FR 16246, Apr. 15, 1983, as amended by T.D. TTB–49, 71 FR 34527, June 15, 2006]

## §9.60 Shenandoah Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Shenandoah Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Shenandoah Valley viticultural area are four U.S.G.S. Eastern United States 1:250,000 scale maps. The maps are titled: Roanoke (1971), Charlottesville (1956, with a revision in 1965), Cumberland (1956, revised 1969) and Baltimore (1957, revised 1978).

(c) *Boundaries.* The Shenandoah Valley Viticultural area is located in Frederick, Clarke, Warren, Shenandoah, Page, Rockingham, Augusta, Rockbridge, Botetourt, and Amherst Counties in Virginia, and Berkeley and

Jefferson Counties in West Virginia. The boundaries are as follows:

(1) The boundary line starts at the point of the intersection of the Potomac River and the Virginia-West Virginia State line approximately eight miles east of Charlestown, West Virginia.

(2) Then the boundary proceeds southwesterly approximately 14.8 miles along the State line, which essentially follows the crest of the Blue Ridge Mountains, to its intersection with the western border line of Clarke County, Virginia.

(3) Then the boundary continues approximately 13.8 miles southwesterly along the county line and the crest of the Blue Ridge to its intersection with the western boundary line of Warren County, Virginia.

(4) Then the boundary continues approximately 15 miles along the Warren County line to its intersection with the Skyline Drive.

(5) Then the boundary continues approximately 71 miles in a southwesterly direction along the Skyline Drive and the Blue Ridge to its intersection with the Blue Ridge Parkway.

(6) Then the boundary continues approximately 53 miles in a southeasterly direction along the Blue Ridge Parkway to its intersection with the James River.

(7) Then the boundary proceeds approximately 44 miles along the James River in a west-northwesterly direction to its intersection with the northwest boundary line of the Jefferson National Forest near Eagle Rock.

(8) Then the boundary proceeds approximately 10.5 miles in a northeasterly direction along the Jefferson National Forest line and along the crest of North Mountain to its intersection with the western boundary line of Rockbridge County.

(9) Then the boundary continues approximately 23 miles along the county line in the same northeasterly direction to its intersection with the Chesapeake and Ohio Railroad.

(10) Then the boundary continues approximately 23 miles along the railroad between the Great North Mountain and the Little North Mountain to its intersection with the southeastern boundary line of the George Washington National Forest at Buffalo Gap.

(11) Then the boundary continues approximately 81 miles northeasterly along the George Washington National Forest Line to the Vertical Control Station, (elevation 1883), on the crest of Little North Mountain approximately 3 miles west of Van Buren Furnace.

(12) Then the boundary line continues approximately 53 miles northeasterly along the crest of Little North Mountain to its intersection with the Potomac River in Fort Frederick State Park.

(13) Then the boundary continues approximately 47.4 miles southeasterly along the Potomac River to the beginning point at that Rivers intersection with the boundary line between West Virginia and Virginia.

[T.D. ATF–120, 47 FR 57698, Dec. 28, 1982, as amended by T.D. ATF–249, 52 FR 5958, Feb. 27, 1987]

### § 9.61 El Dorado.

(a) *Name.* The name of the viticultural area described in this section is ''El Dorado.''

(b) *Approved maps.* The approved U.S.G.S. topographic maps (7.5 series; quadrangles) showing the boundaries of the El Dorado viticultural area, including quadrangles showing the area within the boundaries, are as follows:

(1) ''Pilot Hill, California,'' 1954 (photorevised 1973);

(2) ''Auburn, California,'' 1953 (photorevised 1973);

(3) ''Greenwood, California,'' 1949 (photorevised 1973);

(4) ''Georgetown, California,'' 1949 (photorevised 1973);

(5) ''Foresthill, California,'' 1949 (photorevised 1973);

(6) ''Michigan Bluff, California,'' 1952 (photorevised 1973);

(7) ''Tunnel Hill, California,'' 1950 (photorevised 1973);

(8) ''Slate Mountain, California,'' 1950 (photorevised 1973);

(9) ''Pollock Pines, California,'' 1950 (photorevised 1973);

(10) ''Stump Spring, California,'' 1951 (photorevised 1973);

(11) ''Caldor, California,'' 1951 (photorevised 1973);

(12) ''Omo Ranch, California,'' 1952 (photorevised 1973);

(13) ''Aukum, California,'' 1952 (photorevised 1973);

(14) ''Fiddletown, California,'' 1949;

(15) ''Latrobe, California,'' 1949 (photorevised 1973);

(16) ''Shingle Springs, California,'' 1949;

(17) ''Coloma, California,'' 1949 (photorevised 1973);

(18) ''Garden Valley, California,'' 1949 (photorevised 1973);

(19) ''Placerville, California,'' 1949 (photorevised 1973);

(20) ''Camino, California,'' 1952 (photorevised 1973);

(21) ''Sly Park, California,'' 1952 (photorevised 1973);

(c) *Boundaries.* The boundaries of the El Dorado viticultural area which is located in El Dorado County, California, are as follows:

(1) The beginning point of the boundaries is the intersection of the North Fork of the American River (also the boundary line between El Dorado and Placer Counties) and the township line ''T. 11 N./T. 12 N.'' (''Pilot Hill'' Quadrangle);

(2) Thence northeast along the North Fork of the American River to its divergence with the Middle Fork of the American River, continuing then, following the Middle Fork of the American River to its intersection with the Rubicon River which continues as the boundary line between El Dorado and Placer Counties (''Auburn,'' ''Greenwood,'' ''Georgetown,'' ''Foresthill,'' and ''Michigan Bluff'' Quadrangles);

(3) Thence southeast along the Rubicon River to its intersection with the range line ''R. 11 E./R. 12 E.'' (''Tunnel Hill'' Quadrangle);

(4) Thence south along the range line through T. 13 N. and T. 12 N., to its intersection with the township line ''T. 12 N./T. 11 N.'' (''Tunnel Hill'' and ''Slate Mountain'' Quadrangles);

(5) Thence east along the range line to its intersection with the range line ''R. 12 E./R. 13 E.'' (''Slate Mountains'' and ''Pollock Pines'' Quadrangles);

(6) Thence south along the range line to its intersection with the township line ''T. 11 N./T. 10 N.'' (''Pollock Pines'' Quadrangle);

(7) Thence east along the township line to its intersection with the range line ''R. 13 E./R. 14 E.'' (''Pollock Pines'' and ''Stump Spring'' Quadrangles);

(8) Thence south along the range line through T. 10 N., T. 9 N., and T. 8 N. to its intersection with the South Fork of the Cosumnes River (also the boundary line between El Dorado and Amador Counties) (''Stump Spring'' and ''Caldor'' Quadrangles);

(9) Thence west and northwest along the South Fork of the Cosumnes River to its intersection with range line ''R. 11 E./R. 10 E.'' (''Caldor,'' ''Omo Ranch,'' ''Aukum,'' and ''Fiddletown'' Quadrangles);

(10) Thence north along the range line to its intersection with the township line ''T. 8 N./T. 9 N.'' (''Fiddletown'' Quadrangle);

(11) Thence west along the township line to its intersection with range line ''R. 10 E./R. 9 E.'' (''Fiddletown'' and ''Latrobe'' Quadrangles);

(12) Thence north along the range line to its intersection with U.S. Route 50;

(13) Thence west along U.S. Route 50 to its intersection with Cameron Park Drive;

(14) Thence north along Cameron Park Drive to its intersection with Green Valley Road;

(15) Thence east along Green Valley Road to its intersection with range line R.10 E/ R.9 E;

(16) Thence north along the range line to its intersection with the township line T.10 N./ T.11 N;

(17) Thence east along the township line approximately 4,000 feet to its intersection with the range line ''R. 9 E./R. 10 E.'' (''Coloma'' Quadrangle);

(18) Thence north on the range line to its intersection with the township line ''T. 11 N./T. 12 N.'' (''Coloma'' Quadrangle); and

(19) Thence west along the township line to the point of beginning (''Coloma'' and ''Pilot Hill'' Quadrangles).

[T.D. ATF–152, 48 FR 46520, Oct. 13, 1983, as amended by T.D. ATF–254, 52 FR 23651, June 24, 1987]

### § 9.62 Loramie Creek.

(a) *Name.* The name of the viticultural area described in this section is ''Loramie Creek.''

(b) *Approved map.* The approved map for the Loramie Creek viticultural area is the U.S.G.S. map entitled ''Fort Loramie Quadrangle, Ohio—Shelby Co.,'' 7.5 minute series (topographic), 1961 (photoinspected 1973).

(c) *Boundaries.* The Loramie Creek viticultural area is located entirely within Shelby County, Ohio. The boundaries are as follows:

(1) From the beginning point of the boundary at the intersection of State Route 47 and Wright-Puthoff Road, the boundary runs southward on Wright-Puthoff Road for a distance of 1⅜ miles to the intersection of the Wright-Puthoff Road with Consolidated Railroad Corporation (indicated on the U.S.G.S. map as New York Central Railroad);

(2) Then along the Consolidated Railroad Corporation right-of-way in a southwesterly direction for a distance of 2⅛ miles to the intersection of the Consolidated Railroad Corporation right-of-way with Loramie Creek;

(3) Then upstream along Loramie Creek in a northwesterly direction for a distance of approximately 3½ miles to the intersection of Loramie Creek and State Route 47;

(4) Then eastward on State Route 47 for a distance of approximately 4⅛ miles to the beginning point of State Route 47 and Wright-Puthoff Road.

[T.D. ATF–118, 47 FR 53356, Nov. 26, 1982]

### § 9.63 Linganore.

(a) *Name.* The name of the viticultural area described in this section is ''Linganore.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Linganor viticultural area are five U.S.G.S topographic maps. They are—

(1) ''Walkersville Quadrangle, Maryland—Frederick Co.'', 7.5 minute series, 1953 (Photorevised 1979);

(2) ''Libertytown Quadrangle, Maryland'', 7.5 minute series, 1944 (Photorevised 1971);

(3) ''Damascus Quadrangle, Maryland'', 7.5 minute series, 1944 (Photorevised 1979);

(4) ''Winfield Quadrangle, Maryland'', 7.5 minute series, 1950 (Photorevised 1979); and

(5) ''Union Bridge Quadrangle, Maryland,'' 7.5 minute series, 1953 (Photorevised 1971).

(c) *Boundaries.* The Linganore viticultural area is located in north central Maryland and encompasses parts of Frederick and Carroll Counties. From the beginning point lying at the confluence of Linganore Creek and the Monocacy River, on the Walkersville Quadrangle map, the boundary runs—

(1) South-southeasterly 5,000 feet in a straight line to the point lying approximately 1,000 feet south of Interstate Highway 70 at the intersection of two unnamed light duty roads in the town of Bartonsville;

(2) Then east-southeasterly 15,500 feet in a straight line to the point lying at the intersection of Mussetter Road and latitude line 39 degrees 22 minutes 30 seconds;

(3) Then east-northeasterly 8,125 feet in a straight line to the point lying at the intersection of Mill Road and State Highway 144;

(4) Then easterly along State Highway 144 on the Walkersville Quadrangle, Libertytown Quadrangle, and Damascus Quadrangle maps to the point of intersection with State Highway 27, approximately midway between the towns of Ridgeville and Parrsville, on the Damascus Quadrangle map;

(5) Then northeasterly along State Highway 27 on the Damascus Quadrangle, Libertytown Quadrangle, and Winfield Quadrangle maps to the point of intersection with State Highway 26 in the town of Taylorsville on the Winfield Quadrangle map;

(6) Then northerly 2,750 feet in a straight line to the point on a hill identified as having an elevation of 850 feet;

(7) Then northwesterly 21,000 feet in a straight line to the point lying at the intersection of State Highway 31 and latitude line 39 degrees 30 minutes on the Libertytown Quadrangle and Union Bridge Quadrangle maps;

(8) Then westerly 15,625 feet along latitude line 39 degrees 30 minutes to the point of intersection with Copper Mine Road;

(9) Then northwesterly along Copper Mine Road on the Union Bridge Quadrangle map to the point of intersection with longitude line 77 degrees 15 minutes;

(10) Then southerly 5,250 feet along longitude line 77 degrees 15 minutes to the point of intersection with latitude line 39 degrees 30 minutes on the Union Bridge Quadrangle and Walkersville Quadrangle maps;

(11) Then southwesterly 46,750 feet in a straight line on the Walkersville Quadrangle map to the point of beginning.

[T.D. ATF–140, 48 FR 37374, Aug. 18, 1983]

### §9.64 Dry Creek Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Dry Creek Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Dry Creek Valley viticultural area are six U.S.G.S. topographic maps. They are—

(1) ''Geyserville Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955 (Photorevised 1975);

(2) ''Jimtown Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955 (Photorevised 1975);

(3) ''Healdsburg Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955 (Photorevised 1980);

(4) ''Guerneville Quadrangle, California—Sonoma County,'' 7.5 minute series, 1955;

(5) ''Cazadero Quadrangle, California—Sonoma County,'' 7.5 minute series, 1978; and

(6) ''Warm Springs Dam Quadrangle (formerly 'Skaggs Springs Quadrangle'), California—Sonoma County,'' 7.5 minute series, 1978.

(c) *Boundaries.* The Dry Creek Valley viticultural area is located in north central Sonoma County, California. From the beginning point, lying at the intersection of latitude line 38 degrees 45 minutes and the northwest corner of Section 5, T. 10 N., R. 10 W. on the ''Geyserville Quadrangle'' map, the boundary runs—

(1) Southeasterly in a straight line approximately 11,000 feet (closely following the ridge line) to the northeast corner of Section 9, T. 10 N., R. 10 W.;

(2) Then southerly along the east line of Section 9 to the southeast corner thereof;

(3) Then S. 74 degrees, E. 2,800 feet in a straight line to the northeasterly tip of a small unnamed lake;

(4) Then N. 57 degrees, E. 2,300 feet in a straight line to the southeast corner of Section 10, T. 10 N., R. 10 W.;

(5) Then S. 16 degrees, E. 1,800 feet in a straight line to the point on a peak identified as having an elevation of 664 feet;

(6) Then S. 55 degrees, E. 7,900 feet in a straight line to the most northerly point on the northeasterly line of ''Olive Hill'' cemetery lying on the easterly side of Canyon Road;

(7) Then southeasterly along the northeasterly line of ''Olive Hill'' cemetery to the most easterly point thereon;

(8) Then S. 2 degrees, E. 3,100 feet in a straight line to the point in the westerly fork of Wood Creek lying at the westerly terminus of a dirt road;

(9) Then southerly 3,000 feet along the west fork of Wood Creek to the point lying 400 feet north of the point on a peak identified as having an elevation of 781 feet;

(10) Then southerly 400 feet in a straight line to the point on a peak identified as having an elevation of 781 feet;

(11) Then S. 50½ degrees, E. 15,500 feet in a straight line to the point lying at the intersection of Lytton Creek and the township line common to T. 9 N. and T. 10 N. in R. 9 W.;

(12) Then southerly along the meanders of Lytton Creek to the point of intersection with Lytton Springs Road in T. 9 N., R. 9 W.;

(13) Then easterly along Lytton Springs Road to the point of intersection with U.S. Highway 101 (a.k.a. Redwood Highway) on the ''Jimtown Quadrangle'' map;

(14) Then southerly along U.S. Highway 101 to the point of intersection with an unnamed light duty road (known locally as Chiquita Road) on the ''Geyserville Quadrangle'' map;

(15) Then easterly along the unnamed light duty road to the point of intersection with an unnamed heavy duty road (known locally as Healdsburg Avenue) on the ''Jimtown Quadrangle'' map;

(16) Then southerly along the unnamed heavy duty road through the town of Healdsburg to the point of intersection with the Russian River on the ''Healdsburg Quadrangle'' map;

(17) Then southerly along the meanders of the Russian River to the confluence of Dry Creek;

(18) Then west-southwesterly 1,300 feet in a straight line to an unnamed light duty road (known locally as Foreman Lane);

(19) Then westerly along the unnamed light duty road, crossing West Dry Creek Road and passing Felta School, to the point of intersection with Felta Creek on the ''Guerneville Quadrangle'' map;

(20) Then southwesterly 18,000 feet along the meanders of Felta Creek to the point lying at the intersection of three springs in T. 8 N., R. 10 W., approximately 300 feet east from the word ''Springs'';

(21) Then S. 58 degrees, W. 15,000 feet in a straight line to the southwest corner of Section 9, T. 8 N., R. 10 W.;

(22) Then northerly along the west line of Sections 9 and 4, T. 8 N., R. 10 W., continuing along the west line of Section 33, T. 9 N., R. 10 W. to the northwest corner thereof;

(23) Then westerly along the south line of Sections 29 and 30, T. 9 N., R. 10 W. to the southwest corner of Section 30 on the ''Cazadero Quadrangle'' map;

(24) Then northerly along the west line of Sections 30 and 19, T. 9 N., R. 10 W. to the northwest corner of Section 19;

(25) Then westerly along the south line of Section 13, T. 9 N., R. 11 W. to the southwest corner thereof;

(26) Then southwesterly 14,200 feet in a straight line to the northeast corner of Section 20, T. 9 N., R. 11 W.;

(27) Then westerly along the north line of Section 20 to the northwest corner thereof;

(28) Then northerly along the east line of Sections 18, 7, and 6, T. 9 N., R. 11 W., continuing along the east line of Sections 31, 30, 19, 18, 7, and 6, T. 10 N., R. 11 W. to the point of intersection with latitude line 38 degrees 45 minutes on the ''Warm Springs Dam Quadrangle'' map; and

(29) Then easterly along latitude line 38 degrees 45 minutes to the point of beginning on the ''Geyserville Quadrangle'' map.

[T.D. ATF–137, 48 FR 35397, Aug. 4, 1983, as amended by T.D. ATF–468, 66 FR 50565, Oct. 4, 2001]

## § 9.65 North Fork of Roanoke.

(a) *Name.* The name of the viticultural area described in this section is ''North Fork of Roanoke.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the North Fork of Roanoke viticultural area are six U.S.G.S. Virginia, 7.5 minute series maps. They are:

(1) McDonalds Mill Quadrangle, 1965;

(2) Glenvar Quadrangle, 1965;

(3) Elliston Quadrangle, 1965;

(4) Ironto Quadrangle, 1965;

(5) Blacksburg Quadrangle, 1965; and

(6) Newport Quadrangle, 1965.

(c) *Boundaries.* The North Fork of Roanoke viticultural area is located in parts of Roanoke and Montgomery Counties in southern Virginia.

(1) The point of the beginning is in the north at the intersection of State Routes 785 and 697 in Roanoke County.

(2) Then the boundary follows State Route 697 northeast over Crawford Ridge to the intersection at State Route 624.

(3) Then the boundary turns southwest on State Route 624 along the boundary of the Jefferson National Forest and then continues across the Montgomery County line to U.S. 460 (business).

(4) Then the boundary follows U.S. Route 460 (business) south through the town of Blacksburg.

(5) Then the boundary continues on U.S. Route 460 (bypass) to the intersection of U.S. Route 460 East, where it turns east for approximately one mile to the intersection of U.S. Interstate Highway 81 at Interchange 37.

(6) Then the boundary continues northeast on Interstate Highway 81 to its intersection with State Route 603 at interchange 38.

(7) Then the boundary continues northwest on State Route 603 to its intersection with State Route 629.

(8) Then the boundary follows State Route 629 (which later becomes State Route 622 north of Brandshaw Creek) 2 miles across the Roanoke County line to where it intersects the Chesapeake

and Potomac Telephone Company right-of-way.

(9) Then the boundary turns northwest along the C & P right-of-way over Pearis Mountain to the point where the right-of-way intersects State Route 785, one quarter mile northeast of the intersections of State Routes 785 and 697.

(10) Then the boundary follows State Route 784 back to the beginning point.

[T.D. ATF–129, 48 FR 16250, Apr. 15, 1983, as amended by T.D. ATF–249, 52 FR 5958, Feb. 27, 1987]

### §9.66 Russian River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Russian River Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Russian River Valley viticultural area are 11 United States Geological Survey 1:24,000 Scale topographic maps. They are titled:

(1) Healdsburg, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1993;

(2) Guerneville, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1993;

(3) Cazadero, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1978;

(4) Duncans Mills California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1979;

(5) Camp Meeker, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1995;

(6) Valley Ford, California Quadrangle, 7.5 Minute Series, edition of 1954; photorevised 1971;

(7) Two Rock, California Quadrangle, 7.5 Minute Series, edition of 1954; photorevised 1971;

(8) Sebastopol, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1954; photorevised 1980;

(9) Santa Rosa, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1954; and

(10) Mark West Springs, California Quadrangle, 7.5 Minute Series, edition of 1998, and

(11) Jimtown, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1993.

(c) *Boundaries.* The Russian River Valley viticultural area is located in Sonoma County, California.

(1) Starting point Healdsburg map-Healdsburg Avenue Bridge over the Russian River at Healdsburg. Proceed south along Russian River to the point where Russian River and Dry Creek converge, from this point proceed west in a straight line to Forman Lane.

(2) Proceed west along Foreman Lane to where it crosses Westside Road and becomes Felta School Road.

(3) Proceed west on Felta School Road to the point where it crosses Felta Creek.

(4) Proceed 18000′ up Felta Creek to its headwaters as shown on the *Guerneville, map* as ''Springs.''

(5) Proceed southwest in a straight line 58 degrees W 27000′ to an intersection with Hulbert Creek on the Cazadero map.

(6) Proceed south and southeast along Hulbert Creek to the point where it intersects California Hwy 116 on the Duncan Mills map.

(7) Proceed in a westerly direction along California Hwy 116 to Monte Rio where it intersects the Bohemian Hwy.

(8) Proceed southeast along the Bohemian Highway, crossing over the Camp Meeker map, to the town of Freestone, where the highway intersects at BM 214 with an unnamed medium-duty road (known locally as Bodega Road, section 12, T6N, R10W, on the Valley Ford map).

(9) Proceed 0.9 mile northeast on Bodega Road to its intersection, at BM 486, with Jonvive Road to the north and an unnamed light duty road to the south, (known locally as Barnett Valley Road, T6N, R9W, on the Camp Meeker map).

(10) Proceed 2.2 miles south, and then east, on Barnett Valley Road, crossing over the Valley Ford map, to its intersection with Burnside Road in section 17, T6N, R9W, on the Two Rock map.

(11) Proceed 3.3 miles southeast on Burnside Road to its intersection with an unnamed medium duty road at BM 375, T6N, R9W, on the Two Rock map.

(12) Proceed 0.6 mile straight southeast to an unnamed 610-foot elevation peak, 1.5 miles southwest of Canfield School, T6N, R9W, on the Two Rock map.

(13) Proceed 0.75 mile straight east-southeast to an unnamed 641-foot elevation peak, 1.4 miles south-southwest of Canfield School, T6N, R9W, on the Two Rock map.

(14) Proceed 0.85 mile straight northeast to the intersection with an unnamed intermittent stream and Canfield Road; continue 0.3 mile straight in the same northeast line of direction to its intersection with the common boundary of Ranges 8 and 9, just west of an unnamed unimproved dirt road, T6N, on the Two Rock map.

(15) Proceed 1.8 miles straight north along the common Range 8 and 9 boundary line to its intersection with Blucher Creek, T6N, on the Two Rock map.

(16) Proceed 1.25 miles generally northeast along Blucher Creek to its intersection with Highway 116, also known as Gravenstein Highway, in section 18, T6N, R8W, on the Two Rock map.

(17) Proceed 0.2 mile straight southeast along Highway 116 to its intersection with an unnamed light duty road to the north in section 18, T6N, R8W, on the Two Rock map.

(18) Proceed 0.1 mile straight northwest along the unnamed light duty road to its intersection with an unnamed medium-duty road to the east, (known as Todd Road in section 18, T6N, R8W, on the Two Rock map).

(19) Proceed 4.8 miles east, north, and east again along Todd Road, a medium-duty road, crossing over the Sebastopol map and then passing over U.S. Highway 101 and continuing straight east 0.1 mile to Todd Road's intersection with Santa Rosa Avenue, a primary road that is generally parallel to U.S. Highway 101, in section 2, T6N, R8W, on the Santa Rosa map.

(20) Proceed 5.8 miles generally north along Santa Rosa Avenue, which becomes Mendocino Avenue, to its intersection with an unnamed secondary road, known locally as Bicentennial Way, 0.3 mile north-northwest of BM 161 on Mendocino Avenue, section 11, T7N, R8W, on the Santa Rosa map.

(21) Proceed 2.5 miles straight north, crossing over the 906-foot elevation peak in section 35 of the Santa Rosa map, to its intersection with Mark West Springs Road and the meandering 280-foot elevation in section 26, T8N, R8W, of the Mark West Springs map.

(22) Proceed 4.8 miles north-northwest along Mark West Springs Road, which becomes Porter Creek Road, to its intersection with Franz Valley Road, a light-duty road to the north of Porter Creek Road, in section 12, T8N, R8W, on the Mark West Springs map.

(23) Proceed in a northerly direction along Franz Vally Road to the northerly most crossing of Franz Creek.

(24) Proceed west along Franz Creek until it intersects the line separating Section 21 and Section 22.

(25) Proceed south on this line separating Section 21 and 22 to the corner common to Section 21 and 22 and Section 27 and 28.

(26) Proceed west from the common corner of Section 21 and 22 and 27 and 28 and in a straight line to the peak of Chalk Hill on the *Healdsburg map*.

(27) Proceed west from the peak of Chalk Hill in a straight line to the point where Brooks Creek joins the Russian River.

(28) Proceed north west in a straight line 8000′ to a peak marked 772′ elv. on the *Jimtown map*.

(29) Proceed north west in a straight line from hill top 772′ elv. to hill top 596′ elv.

(30) Proceed north west in a straight line from hill top 596′ elv. to hill top 516′ elv.

(31) Proceed north west in a straight line from hill top 516′ elv. to hill top 530′ elv.

(32) Proceed west in a straight line from hill top 530′ elv. to hill top 447′ elv.

(33) Proceed west in a straight line from hill top 447′ elv. to the point where Alexander Valley Road meets Healdsburg Avenue.

(34) Proceed south along Healdsburg Avenue through the city of Healdsburg on the *Healdsburg map* to the point where it crosses the Russian River at the point of beginning.

[T.D. ATF–159, 48 FR 48813, Oct. 21, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987; T.D. TTB–7, 68 FR 67370, Dec. 2, 2003; T.D. TTB–32, 70 FR 53299, Sept. 8, 2005]

**§9.67 Catoctin.**

(a) *Name.* The name of the viticultural area described in this section is ''Catoctin.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Catoctin viticultural area are 12 U.S.G.S. maps in the scale 1:24,000. They are—

(1) ''Point of Rocks Quadrangle, Maryland—Virginia,'' 7.5 minute series, 1970;

(2) ''Buckeystown Quadrangle, Maryland,'' 7.5 minute series, 1952 (Photorevised 1971);

(3) ''Frederick Quadrangle, Maryland,'' 7.5 minute series, 1953 (Photorevised 1980);

(4) ''Catoctin Furnace Quadrangle, Maryland,'' 7.5 minute series, 1953 (Photorevised 1979);

(5) ''Blue Ridge Summit Quadrangle, Maryland—Pennsylvania,'' 7.5 minute series, 1953 (Photorevised 1971);

(6) ''Emmitsburg Quadrangle, Maryland—Pennsylvania,'' 7.5 minute series, 1953 (Photorevised 1971);

(7) ''Smithsburg Quadrangle, Maryland—Pennsylvania,'' 7.5 minute series, 1953 (Photorevised 1971);

(8) ''Myersville Quadrangle, Maryland,'' 7.5 minute series, 1953 (Photorevised 1971);

(9) ''Funkstown Quadrangle, Maryland,'' 7.5 minute series, 1953 (Photorevised 1971);

(10) ''Keedysville Quadrangle, Maryland—West Virginia,'' 7.5 minute series, 1978;

(11) ''Harpers Ferry Quadrangle, Virginia—Maryland—West Virginia,'' 7.5 minute series, 1969; and

(12) ''Charles Town Quadrangle, West Virginia—Virginia—Maryland,'' 7.5 minute series, 1978;

(13) ''Middletown Quadrangle, Maryland,'' 7.5 minute series, 1953 (photorevised 1979);

(c) *Boundaries.* The Catoctin viticultural area is located in western Maryland and encompasses parts of Frederick and Washington Counties. From the beginning point at the point where U.S. Highway 15 crosses the Potomac River and enters the land mass of Maryland on the ''Point of Rocks Quadrangle'' map, the boundary runs—

(1) Northerly 1,100 feet in a straight line to the point of intersection with a 500-foot contour line;

(2) Then northeasterly along the meanders of the 500-foot contour line on the ''Point of Rocks Quadrangle,'' ''Buckeystown Quadrangle,'' ''Frederick Quadrangle,'' ''Catoctin Furnace Quadrangle,'' ''Blue Ridge Summit Quadrangle,'' and ''Emmitsburg Quadrangle'' maps to the point of intersection with the Maryland—Pennsylvania State line on the ''Emmitsburg Quadrangle'' map;

(3) Then west along the Maryland-Pennsylvania State line on the ''Emmitsburg Quadrangle,'' ''Blue Ridge Summit Quadrangle,'' and ''Smithsburg Quadrangle'' maps to the point of intersection with the first 800-foot contour line lying west of South Mountain on the ''Smithsburg Quadrangle'' map;

(4) Then southwesterly along the meanders of the 800-foot contour line on the ''Smithburg Quadrangle,'' ''Myersville Quadrangle,'' ''Funkstown Quadrangle,'' and ''Keedysville Quadrangle'' maps to the point of intersection with an unnamed light duty road (known locally as Clevelandville Road) north of the town of Clevelandville on the ''Keedysville Quadrangle'' map;

(5) Then southerly along the unnamed light duty road to the point of intersection with Reno Monument Road;

(6) Then southwesterly 13,500 feet in a straight line to the point lying at the intersection of Highway 67 and Millbrook Road;

(7) Then westerly along Millbrook Road to the point of intersection with Mount Briar Road;

(8) Then northerly along Mount Briar Road to the point of intersection with a 500-foot contour line;

(9) Then northerly along the 500-foot contour line to the point of intersection with Red Hill Road;

(10) Then southerly along the 500-foot contour line to the point of intersection with Porterstown Road;

(11) Then south-southwesterly 29,000 feet in a straight line to the most eastern point on the boundary line of the Chesapeake and Ohio Canal National Historical Park lying north of the town of Dargan;

(12) Then southwesterly 7,500 feet in a straight line to the point of the ''Harpers Ferry Quadrangle'' map lying approximately 600 feet northwest of Manidokan Camp at the confluence of an unnamed stream and the Potomac River; and

(13) Then easterly along the meanders of the Potomac River on the ''Harpers Ferry Quadrangle,'' ''Charles Town Quadrangle,'' and ''Point of Rocks Quadrangle'' maps to the point of beginning.

[T.D. ATF–154, 48 FR 46523, Oct. 13, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### § 9.68 Merritt Island.

(a) *Name.* The name of the viticultural area described in this section is ''Merritt Island.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Merritt Island viticultural area are two U.S.G.S. maps, 7.5 minute series. They are entitled:

(1) ''Clarksburg Quadrangle, California,'' 1967 (Photo revised 1980); and

(2) ''Courtland Quadrangle, California,'' 1978.

(c) *Boundaries.* The Merritt Island viticultural area is located in Yolo County, California, six miles south of the City of Sacramento. The boundaries of the Merritt Island viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

(1) Starting at the most southernly point, the intersection of Sutter Slough with the Sacramento River.

(2) Then west along the course of Sutter Slough for 0.54 miles until it intersects Elk Slough.

(3) Then northeast along the course of Elk Slough for 9.58 miles to the community of Clarksburg and the intersection of Sacramento River.

(4) Then southeasterly along the course of the Sacramento River for 7.8 miles to the beginning point.

[T.D. ATF–134, 48 FR 22146, May 17, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### § 9.69 Yakima Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Yakima Valley.''

(b) *Approved maps.* The approved maps for determining the boundary of the Yakima Valley viticultural area are two U.S.G.S. maps. They are entitled:

(1) ''Walla Walla, Washington,'' scaled 1:250,000, edition of 1953, limited revision 1963; and

(2) ''Yakima, Washington,'' scaled 1:250,000, edition of 1958, revised 1971.

(c) *Boundaries.* The Yakima Valley viticultural area is located in Benton and Yakima Counties, Washington. The beginning point is found on the ''Yakima, Washington,'' U.S.G.S. map at the Wapato Dam located on the Yakima River.

(1) Then east following the crest of the Rattlesnake Hills across Elephant Mountain, Zillah Peak, High Top (elevation 3031 feet), and an unnamed mountain (elevation 3629 feet) to the Bennett Ranch;

(2) Then due east approximately 0.2 mile to the boundary of the Hanford Atomic Energy Commission Works;

(3) Then southeast following the boundary of the Hanford AEC Works along the Rattlesnake Hills to the Yakima River;

(4) Then southeast across the top of Red Mountain to the peak of Badger Mountain;

(5) Then due south for approximately 4.9 miles to the 1000 foot contour line immediately south of the Burlington Northern Railroad (indicated on map as the Northern Pacific Railroad);

(6) Then west following the 1000 foot contour line to its intersection with U.S. Highway 97 immediately west of Hembre Mountain;

(7) Then west following the Toppenish Ridge, across an unnamed mountain (elevation 2172 feet), an unnamed mountain (elevation 2363 feet), to the peak of Toppenish Mountain (elevation 3609 feet);

(8) Then northwest in straight line for approximately 9.3 miles to the lookout tower at Fort Simcoe Historical State Park;

(9) Then north in a straight line for approximately 11.7 miles to an unnamed peak, (elevation 3372 feet); and

(10) Then east following Ahtanum Ridge, crossing unnamed peaks of 2037 feet elevation, 2511 feet elevation, 2141

feet elevation, to the Wapato Dam at the point of beginning.

[T.D. ATF–128, 48 FR 14375, Apr. 4, 1983]

### §9.70 Northern Sonoma.

(a) *Name.* The name of the viticultural area described in this section is ''Northern Sonoma.''

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978, and the Jimtown Quadrangle, California-Sonoma County, 7.5 Minute series (Topographic) Map, dated 1955, photorevised 1975.

(c) *Boundary.* The Northern Sonoma Viticultural area is located in Sonoma County, California. The boundary description in paragraphs (c)(1) through (c)(28) of this section includes (in parentheses) the local names of roads which are not identified by name on the map.

(1) On the U.S.G.S. Topographical Map of Sonoma County, California, the beginning point is the point, in the town of Monte Rio, at which a secondary highway (Bohemian Highway) crosses the Russian River.

(2) The boundary follows this secondary highway (Bohemian Highway) southeasterly across the Russian River, along Dutch Bill Creek, through the towns of Camp Meeker, Occidental, and Freestone, then northeasterly to the point at which it is joined by State Highway 12.

(3) The boundary follows State Highway 12 through the town of Sebastopol to the point, near a bench mark at elevation 96 feet, at which it intersects a northbound secondary highway (Fulton Road) leading toward the town of Fulton.

(4) The boundary follows this secondary highway (Fulton Road) north to the town of Fulton where it intersects an east-west secondary highway (River Road).

(5) The boundary follows this secondary highway (River Road)—

(i) East past U.S. Highway 101 (where the name of this secondary highway changes to Mark West Springs Road),

(ii) Easterly, then northerly to the town of Mark West Springs (where the name of this secondary highway changes to Porter Road),

(iii) Easterly to the town of Petrified Forest (where the name of this secondary highway changes to Petrified Forest Road), and

(iv) Northeasterly to the Sonoma County-Napa County line.

(6) The boundary follows the Sonoma County-Napa County line northerly to the Sonoma County-Lake County line.

(7) The boundary follows the Sonoma County-Lake County line northwesterly to the section line on the north side of Section 11, Township 10 North, Range 8 West.

(8) The boundary follows this section line west to the northwest corner of Section 9, Township 10 North, Range 8, West.

(9) The boundary follows the section line south to the southwest corner of Section 4, Township 9 North, Range 8, West.

(10) The boundary proceeds northerly along the western lines of section 4, of Township 9 North, Range 8 West, and sections 33, 28, 21, 16, and 9 of Township 10 North, Range 8 West of the Jimtown Quadrangle map.

(11) The boundary proceeds westerly along the northern lines of sections 8 and 7, Township 10 North, Range 8 West and section 12, Township 10 North, Range 9 West to the southeastern corner of section 2, Township 10 North, Range 9 West.

(12) The boundary proceeds northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, Township 10 North, Range 9 West.

(13) The boundary proceeds westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude.

(14) The boundary proceeds northwesterly in a straight line to the southeast corner of section 4, Township 11 North, Range 10 West, on the Asti, Quadrangle map.

(15) The boundary proceeds northeasterly in a straight line to the southeast corner of section 34, Township 12 North, Range 10 West.

(16) The boundary proceeds north along the east boundary of section 34,

Township 12 North, Range 10 West on the U.S.G.S. Topographical Map of Sonoma County, California, to the Sonoma County-Mendocino County line.

(17) The boundary proceeds along the Sonoma County-Mendocino County line west then south to the southwest corner of section 34, Township 12 North, Range 11 West.

(18) The boundary proceeds in a straight line east southeasterly to the southeast corner of section 2, Township 11 North, Range 11 West.

(19) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(20) The boundary proceeds in a straight line southeasterly across sections 30, 31, and 32 in Township 11 North, Range 10 West, to the point at 38 degrees 45 minutes North latitude parallel and 123 degrees 00 minutes East longitude in section 5, Township 10 North, Range 10 West.

(21) The boundary proceeds along this latitude parallel west to the west line of section 5, Township 10 North, Range 11 West.

(22) The boundary proceeds along the section line south to the southeast corner of section 18, Township 9 North, Range 11 West.

(23) The boundary proceeds in a straight line southwesterly approximately 5 miles to the peak of Big Oat Mountain, elevation 1,404 feet.

(24) The boundary proceeds in a straight line southerly approximately 2¾ miles to the peak of Pole Mountain, elevation 2,204 feet.

(25) The boundary proceeds in a straight line southeasterly approximately 4¾ miles to the confluence of Austin Creek and the Russian River.

(26) The boundary proceeds along the Russian River northeasterly, then southeasterly to the beginning point.

[T.D. ATF–204, 50 FR 20562, May 17, 1985, as amended by T.D. ATF–233; 51 FR 30354, Aug. 26, 1986; T.D. ATF–300, 55 FR 32402, Aug. 9, 1990]

## § 9.71 Hermann.

(a) *Name.* The name of the viticultural area described in this section is ''Hermann.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Hermann viticultural area are six U.S.G.S. Missouri Quadrangle maps, 7.5 minute series. They are entitled:

(1) Hermann (1974).

(2) Berger (1974).

(3) Gasconade (1974).

(4) Pershing (1974).

(5) Swiss (1973).

(6) Dissen (1973).

(c) *Boundaries.* The Hermann viticultural area is located in central Missouri along and south of the Missouri River, in the northern portions of Gasconade and Franklin Counties. The boundaries of the Hermann viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

(1) Starting at the intersection of the Gasconade River with the Missouri River.

(2) Then continuing east and northeast approximately 16.5 miles along the Missouri River Pacific Railroad, as it parallels the Missouri River, to the Gasconade/Franklin County line.

(3) Then continuing along the Missouri Pacific Railroad southeast approximately 8.5 miles to the intersection Big Berger Creek.

(4) Then southwest along the winding course of Big Berger Creek for approximately 20 miles (eight miles due southwest) to Township line T.44/45N.

(5) Then west along the T.44/45N. line approximately 15.5 miles to the intersection of First Creek.

(6) Then north and northwest along the course of First Creek approximately 13.7 miles (6.5 miles straight northwest) to the intersection of the Gasconade River.

(7) Then northeast along the course of the Gasconade River approximately 3.8 miles to the beginning point.

[T.D. ATF–136, 48 FR 37372, Aug. 18, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

## § 9.72 Southeastern New England.

(a) *Name.* The name of the viticultural area described in this section is ''Southeastern New England.''

(b) *Approved maps.* The approved maps for determining the boundary of the Southeastern New England

viticultural area are three U.S.G.S. maps. They are entitled:

(1) ''Boston, Mass.; N.H.; Conn.; R.I.; Maine'', scaled 1:250,000, edition of 1956, revised 1970;

(2) ''Hartford, Conn.; N.Y.; N.J.; Mass.'', scaled 1:250,000, edition of 1962, revised 1975; and

(3) ''Providence, R.I.; Mass.; Conn.; N.Y.'', scaled 1:250,000, edition of 1947, revised 1969.

(c) *Boundaries.* The Southeastern New England viticultural area is located in the counties of New Haven, New London, and Middlesex in Connecticut; in the counties of Bristol, Newport, Providence, and Washington, in Rhode Island; and in the counties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth in Massachusetts. The beginning point is found on the ''Hartford'' U.S.G.S. map in New Haven Harbor;

(1) Then north following the Quinnipiac River to U.S. Interstate 91;

(2) Then east following U.S. Interstate 91 to Connecticut Highway 80;

(3) Then east following Connecticut Highway 80 to Connecticut Highway 9 near Deep River;

(4) Then north following Connecticut Highway 9 to Connecticut Highway 82;

(5) Then north, east, south and east following Connecticut Highway 82 and 182 to Connecticut Highway 2 in Norwich;

(6) Then east following Connecticut Highway 2 to Connecticut Highway 165;

(7) Then east following Connecticut and Rhode Island Highway 165 to Interstate Highway 95 near Millville;

(8) Then north following Interstate Highway 95 to the Kent County-Washington County boundary;

(9) Then east following the Kent County-Washington County boundary into Narragansett Bay;

(10) Then north through Narragansett Bay, the Providence River, and the Blackstone River to the Rhode Island-Massachusetts State boundary;

(11) Then east and south following the Rhode Island-Massachusetts State boundary to the Norfolk-Bristol (Mass.) County boundary;

(12) Then northeast following the Norfolk-Bristol (Mass.) County boundary to the Amtrak right-of-way (Penn Central on map) northeast of Mansfield;

(13) Then north following the Amtrak right-of-way to the Neponset River immediately east of the Norwood Memorial Airport;

(14) Then northeast following the Neponset River into Dorchester Bay;

(15) Then east following the Norfolk-Suffolk County boundary, and the Plymouth-Suffolk County boundary into Massachusetts Bay;

(16) Then returning to the point of beginning by way of Massachusetts Bay, the Atlantic Ocean, Block Island Sound and Long Island Sound; and including all of the offshore islands in Norfolk, Plymouth, Barnstable, Nantucket, Dukes, and Bristol Counties, Massachusetts; all offshore islands in Rhode Island; and all offshore islands in Connecticut east of the Quinnipiac River.

[T.D. ATF–169, 49 FR 11830, Mar. 28, 1984]

### §9.73 Martha's Vineyard.

(a) *Name.* The name of the viticultural area described in this section is ''Martha's Vineyard.''

(b) *Approved maps.* The approved map for determining the boundary of the Martha's Vineyard viticultural area is the U.S.G.S. map, ''Providence, R.I.; Mass.; Conn.; N.Y.;'' scaled 1:250,000, edition of 1947 revised 1969.

(c) *Boundaries.* The Martha's Vineyard viticultural area is located entirely within Dukes County, Massachusetts. The boundary of the Martha's Vineyard viticultural area is the shoreline of the islands named ''Martha's Vineyard'' and ''Chappaquiddic Island'' on the ''Providence'' U.S.G.S. map, and the viticultural area comprises the entire area of the islands.

[T.D. ATF–193, 50 FR 256, Jan 3, 1985]

### §9.74 Columbia Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Columbia Valley.''

(b) *Approved maps.* The approved maps for determining the boundary of the Columbia Valley viticultural area are nine 1:250,000 scale U.S.G.S. maps. They are entitled:

(1) ''Concrete, Washington, U.S.; British Columbia, Canada,'' edition of 1955, limited revision 1962;

(2) ''Okanogan, Washington,'' edition of 1954, limited revision 1963;

(3) ''Pendleton, Oregon, Washington,'' edition of 1953, revised 1973;

(4) ''Pullman, Washington, Idaho,'' edition of 1955, revised 1974;

(5) ''Ritzville, Washington,'' edition of 1953, limited revision 1965;

(6) ''The Dalles, Oregon, Washington,'' edition of 1953, revised 1971;

(7) ''Walla Walla, Washington, Oregon,'' edition of 1953, limited revision 1963;

(8) ''Wenatchee, Washington,'' edition of 1957, revised 1971; and

(9) ''Yakima, Washington,'' edition of 1958, revised 1971.

(c) *Boundaries.* The Columbia Valley viticultural area is located in Adams, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Stevens, Walla Walla, Whitman, and Yakima Counties, Washington, and in Gilliman, Morrow, Sherman, Umatilla, and Wasco Counties, Oregon. The beginning point is found on ''The Dalles'' U.S.G.S. map at the confluence of the Klickitat and Columbia Rivers:

(1) Then north and east following the Klickitat and Little Klickitat Rivers to U.S. Highway 97 northeast of Goldendale;

(2) Then north following U.S. Highway 97 to the 1,000′ contour line southwest of Hembre Mountain;

(3) Then west following the Toppenish Ridge, across unnamed mountains of 2,172′ and 2,363′ elevation, to the peak of Toppenish Mountain, elevation 3,609′;

(4) Then northwest in a straight line for approximately 11.3 miles to the intersection of Agency Creek with the township line between R. 15 E. and R. 16 E.;

(5) Then north following the township line between R. 15 E. and R. 16 E. to the Tieton River;

(6) Then northeast following the Tieton River to the confluence with the Naches River;

(7) Then east in a straight line for approximately 15.3 miles to the intersection of the 46°45′ latitude line with the Yakima River;

(8) Then north following the Yakima River to the confluence with the North Branch Canal approximately one mile northwest of Throp;

(9) Then north, east, and southeast following the North Branch Canal to its intersection with U.S. Interstate 90 in Johnson Canyon;

(10) Then east following U.S. Interstate 90 to the Columbia River;

(11) Then north following the Columbia River to the township line between T. 21 N. and T. 22 N. immediately north of the Rock Island Dam;

(12) Then west following the township line between T. 21 N. and T. 22 N. for approximately 7.1 miles (from the west shore of the Columbia River) to the 2,000′ contour line immediately west of Squilchuck Creek;

(13) Then north and west following the 2,000′ contour line to the township line between R. 18 E. and R. 19 E. west of the landing area at Cashmere-Dryden;

(14) Then north following the township line between R. 18 E. and R. 19 E. for approximately 4.4 miles to the 2,000′ contour line in Ollala Canyon;

(15) Then east, north, and northwest following the 2,000′ contour line to the township line between R. 19 E. and R. 20 E. immediately west of Ardenoir;

(16) Then north following the township line between R. 19 E. and R. 20 E for approximately 2.8 miles to the 2,000′ contour line immediately north of the secondary road;

(17) Then southwest and north following the 2,000′ contour line to the township line between T. 28 N. and T. 29 N.;

(18) Then east following the township line between T. 28 N. and T. 29 N. for approximately 2.1 miles to the 2,000′ contour line immediately east of Lake Chelan;

(19) Then southeast and north following the 2,000′ contour line (beginning in the ''Wenatchee'' U.S.G.S. map, passing through the ''Ritzville'' and ''Okanogan'' maps, and ending in the ''Concrete'' map) to the point where the 2,000′ contour line intersects the township line between T. 30 N. and T. 31 N. immediately west of Methow;

(20) Then east following the township line between T. 30 N. and T. 31 N. for

approximately 20.2 miles to the 2,000′ contour line east of Monse;

(21) Then south and east following the 2,000′ contour line to the township line between T. 30 N. and T. 31 N. west of Alkali Lake;

(22) Then northeast in a straight line for approximately 10.7 miles to the point of intersection of the 2,000′ contour line with Coyote Creek;

(23) Then east, north, south, east, and north following the 2,000′ contour line to the township line between T. 29 N. and T. 30 N. immediately west of the Sanpoil River;

(24) Then east following the township line between T. 29 N. and T. 30 N. for approximately 2.3 miles to the 2,000′ contour line immediately east of the Sanpoil River;

(25) Then south, east, and north following the 2,000′ contour line to the township line between T. 29 N. and T 30 N. at Ninemile Flat;

(26) Then east following the township line between T. 29 N. and T. 30 N. for approximately 10.7 miles to the township line between R. 36 E. and R. 37 E.;

(27) Then south following the township line between R. 36 N. and R. 37 E. to the township line between T. 26 N. and T. 27 N.;

(28) Then west following the township line between T. 26 N. and T. 27 N. to Banks Lake;

(29) Then south following Banks Lake to Dry Falls Dam;

(30) Then west and south following U.S. Highway 2 and Washington Highway 17 to the intersection with Washington Highway 28 in Soap Lake;

(31) Then southeast in a straight line for approximately 4.7 miles to the source of Rocky Ford Creek near a fish hatchery;

(32) Then south following Rocky Ford Creek and Moses Lake to U.S. Interstate 90 southwest of the town of Moses Lake;

(33) Then east following U.S. Interstate 90 to the Burlington Northern (Northern Pacific) Railroad right-of-way at Raugust Station;

(34) Then south following the Burlington Northern (Northern Pacific) Railroad right-of-way to Washington Highway 260 in Connell;

(35) Then east following Washington Highway 260 through Kahlotus to the intersection with Washington Highway 26 in Washtucna;

(36) Then east following Washington Highways 26 and 127 through La Crosse and Dusty to the intersection with U.S. Highway 195 at Colfax;

(37) Then south following U.S. Highway 195 to the Washington-Idaho State boundary;

(38) Then south following the Washington-Idaho State boundary to the Snake River and continuing along the Snake River to the confluence with Asotin Creek;

(39) Then west following Asotin Creek and Charley Creek to the township line between R. 42 E. and R. 43 E.;

(40) Then north following the township line between R. 42 E. and R. 43 E. to Washington Highway 128 in Peola;

(41) Then north following Washington Highway 128 to the intersection with U.S. Highway 12 in Pomeroy;

(42) Then west following U.S. Highway 12 for approximately 5 miles to the intersection with Washington Highway 126 [in Zumwalt];

(43) Then southwest following Washington Highway 126 and U.S. Highway 12 through Marengo, Dayton, and Waitsburg to a point where an unnamed light-duty road leaves Highway 12 in an easterly direction in Minnick Station, Washington;

(44) Then east following the unnamed light-duty road for approximately 250 feet until it reaches the 2000′ contour line;

(45) Then south and southwest following the 2000′ contour line to the place where it crosses Oregon Highway 74 in Windmill, Oregon;

(46) Then west following Oregon Highway 74 to Highway 207 in Heppner;

(47) Then southwest following Oregon Highway 207 to Highway 206 in Ruggs;

(48) Then northwest following Oregon Highway 206 to the intersection with the township line between T. 1 S. and T. 2 S.;

(49) Then west following the township line between T. 1 S. and T. 2 S. to the Deschutes River;

(50) Then north following the Deschutes River to the Willamette Base Line;

(51) Then west following the Willamette Base Line to the township line between R. 12 E. and R. 13 E.;

(52) Then north following the township line between R. 12 E. and R. 13. to the Columbia River;

(53) Then west following the Columbia River to the confluence with the Klickitat River and the point of beginning.

[T.D. ATF–190, 49 FR 44897, Nov. 13, 1984, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987; 52 FR 10224, Mar. 31, 1987; T.D. ATF–344, 58 FR 40354, July 28, 1993; T.D. ATF–441, 66 FR 11542, Feb. 26, 2001]

### § 9.75 Central Coast.

(a) *Name.* The name of the viticultural area described in this section is ''Central Coast.''

(b) *Approved maps.* The approved maps for determining the boundary of the Central Coast viticultural area are the following 43 United States Geological Survey topographic maps:

(1) Monterey, California (formerly, the Santa Cruz map), scale 1:250,000, NJ 10–12, dated 1974;

(2) Watsonville East, Calif. Quadrangle, Scale 1:24,000, dated 1955, photorevised 1968;

(3) Mt. Madonna, Calif. Quadrangle, Scale 1:24,000, dated 1955, photorevised 1980;

(4) Loma Prieta, Calif. Quadrangle, Scale 1:24,000, dated 1955, photorevised 1968;

(5) Morgan Hill, Calif. Quadrangle, Scale 1:24,000, dated 1955, photorevised 1980;

(6) Santa Teresa Hills, Calif. Quadrangle, Scale 1:24,000, dated 1953, photorevised 1968;

(7) Los Gatos, Calif. Quadrangle, Scale 1:24,000, dated 1953, photorevised 1980;

(8) Castle Rock Ridge, Calif. Quadrangle, Scale 1:24,000, dated 1955, photorevised 1968, photoinspected 1973;

(9) San Jose, California, scale 1:250,000, NJ 10–9, dated 1962, revised 1969;

(10) Dublin, Calif. Quadrangle, scale 1:24,000, dated 1961, photorevised 1980;

(11) Livermore, Calif. Quadrangle, scale 1:24,000, dated 1961, photorevised 1968 and 1973;

(12) Tassajara, Calif. Quadrangle, scale 1:24,000, dated 1953, photoinspected 1974;

(13) Byron Hot Springs, Calif. Quadrangle, scale 1:24,000, dated 1953, photorevised 1968;

(14) Altamont, Calif. Quadrangle, scale 1:24,000, dated 1953, photorevised 1968;

(15) Mendenhall Springs, Calif. Quadrangle, scale 1:24,000, dated 1956, photorevised 1971;

(16) San Luis Obispo, California, scale 1:250,000, NI 10–3, dated 1956, revised 1969 and 1979;

(17) Santa Maria, California, scale 1:250,000, NI 10–6, 9, dated 1956, revised 1969;

(18) Los Angeles, California, scale 1:250,000, NI 11–4, dated 1974;

(19) Diablo, California, scale 1:24,000, dated 1953, Photorevised 1980;

(20) Clayton, California, scale 1:24,000, dated 1953, Photorevised 1980;

(21) Honker Bay, California, scale 1:24,000, dated 1953, Photorevised 1980;

(22) Vine Hill, California, scale 1:24,000, dated 1959, Photorevised 1980;

(23) Benicia, California, scale 1:24,000, dated 1959, Photorevised 1980;

(24) Mare Island, California, scale 1:24,000, dated 1959, Photorevised 1980;

(25) Richmond, California, scale 1:24,000, dated 1959, Photorevised 1980;

(26) San Quentin, California, scale 1:24,000, dated 1959, Photorevised 1980;

(27) Oakland West, California, scale 1:24,000, dated 1959, Photorevised 1980;

(28) San Francisco North, California, scale 1:24,000, dated 1956, Photorevised 1968 and 1973;

(29) San Francisco South, California, scale 1:24,000, dated 1956, Photorevised 1980;

(30) Montara Mountain, California, scale 1:24,000, dated 1956, Photorevised 1980;

(31) Half Moon Bay, California, scale 1:24,000, dated 1961, Photoinspected 1978, Photorevised 1968 and 1973;

(32) San Gregorio, California, scale 1:24,000, dated 1961, Photoinspected 1978, Photorevised 1968;

(33) Pigeon Point, California, scale 1:24,000, dated 1955, Photorevised 1968;

(34) Franklin Point, California, scale 1:24,000, dated 1955, Photorevised 1968;

(35) Año Nuevo, California, scale 1:24,000, dated 1955, Photorevised 1968;

(36) Davenport, California, scale 1:24,000, dated 1955, Photorevised 1968;

(37) Santa Cruz, California, scale 1:24,000, dated 1954, Photorevised 1981;

(38) Felton, California, scale 1:24,000, dated 1955, Photorevised 1980;

(39) Laurel, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1968;

(40) Soquel, California, scale 1:24,000, dated 1954, Photorevised 1980;

(41) Watsonville West, California, scale 1:24,000, dated 1954, Photorevised 1980;

(42) Midway, California, scale 1:24,000, dated 1953, Photorevised 1980; and

(43) Cedar Mtn., California, scale 1:24,000, dated 1956, Photorevised 1971; minor revision 1994.

(c) *Boundary*. The Central Coast viticultural area is located in the following California counties: Monterey, Santa Cruz, Santa Clara, Alameda, San Benito, San Luis Obispo, Santa Barbara, San Francisco, San Mateo, and Contra Costa. The Santa Cruz Mountains viticultural area is excluded. (The boundaries of the Santa Cruz Mountains viticultural area are described in 27 CFR §9.31.)

(1) The beginning point is the point at which the Pajaro River flows into Monterey Bay. (Monterey map)

(2) The boundary follows north along the shoreline of the Pacific Ocean (across the Watsonville West, Soquel, Santa Cruz, Davenport, Año Nuevo, Franklin Point, Pigeon Point, San Gregorio, Half Moon Bay, Montara Mountain and San Francisco South maps) to the San Francisco/Oakland Bay Bridge. (San Francisco North Quadrangle)

(3) From this point, the boundary proceeds east on the San Francisco/Oakland Bay Bridge to the Alameda County shoreline. (Oakland West Quadrangle)

(4) From this point, the boundary proceeds east along the shoreline of Alameda County and Contra Costa County across the Richmond, San Quentin, Mare Island, and Benicia maps to a point marked BM 15 on the shoreline of Contra Costa County. (Vine Hill Quadrangle)

(5) From this point, the boundary proceeds in a southeasterly direction in a straight line across the Honker Bay map to Mulligan Hill elevation 1,438. (Clayton Quadrangle)

(6) The boundary proceeds in southeasterly direction in a straight line to Mt. Diablo elevation 3,849. (Clayton Quadrangle)

(7) The boundary proceeds in a southeasterly direction in a straight line across the Diablo and Tassajara maps to Brushy Peak elevation 1,702. (Byron Hot Springs Quadrangle)

(8) The boundary proceeds due south, approximately 400 feet, to the northern boundaries of Section 13, Township 2 South, Range 2 East. (Byron Hot Springs Quadrangle)

(9) The boundary proceeds due east along the northern boundaries of Section 13 and Section 18, Township 2 South, Range 3 East, to the northeast corner of Section 18. (Byron Hot Springs Quadrangle)

(10) Then proceed southeast in a straight line approximately 1.8 miles to BM 720 in Section 21, Township 2 South, Range 3 East. (Altamont Quadrangle)

(11) Then proceed south-southeast approximately 1 mile to an unnamed 1,147-foot peak in Section 28, Township 2 South, Range 3 East. (Altamont Quadrangle)

(12) Then proceed south-southwest in a straight line approximately 1.1 miles to the intersection of the eastern boundary of Section 32 with Highway 580, Township 2 South, Range 3 East. (Altamont Quadrangle)

(13) Then proceed south-southeast in a straight line approximately 2.7 miles to BM 1602 in Patterson Pass in Section 10, Township 3 South, Range 3 East. (Altamont Quadrangle)

(14) Then proceed south-southeast in a straight line approximately 2.8 miles to BM 1600, adjacent to Tesla Road in Section 26. (Midway Quadrangle)

(15) Then proceed south in a straight line approximately 4.2 miles to BM 1878, 40 feet north of Mines Road, in Section 14, Township 4 South, Range 3 East. (Cedar Mtn. Quadrangle)

(16) Then proceed west-southwest in a straight line approximately 4.2 miles to the southeast corner of Section 19, Township 4 South, Range 3 East. (Mendenhall Springs Quadrangle)

(17) The boundary follows the east-west section line west along the southern boundary of Section 19 in Township 4 South, Range 3 east, and west along

the southern boundary of Section 24 in Township 4 South, Range 2 east, to the southwest corner of that Section 24. (Mendenhall Springs Quadrangle)

(18) The boundary follows the north-south section line north along the western boundary of Section 24 in Township 4 South, Range 2 east, to the northwest corner of that Section 24. (Mendenhall Springs Quadrangle)

(19) The boundary follows the east-west section line west along the southern boundary of Section 14 in Township 4 South, Range 2 east, to the southwest corner of that Section 14. (Mendenhall Springs Quadrangel)

(20) The boundary follows the north-south section line north along the western boundary of Section 14 in Township 4 South, Range 2 east, to the Hetch Hetchy Aqueduct. (Mendenhall Springs Quadrangle)

(21) The boundary follows the Hetch Hetchy Aqueduct southwesterly to the range line dividing Range 1 East from Range 2 East. (San Jose map)

(22) The boundary follows this range line south to its intersection with State Route 130. (San Jose map)

(23) The boundary follows State Route 130 southeasterly to its intersection with the township line dividing Township 6 South from Township 7 South. (San Jose map)

(24) From this point, the boundary proceeds in a straight line southeasterly to the intersection of the township line dividing Township 7 South from Township 8 South with the range line dividing Range 2 East from Range 3 East. (San Jose map)

(25) From this point, the boundary proceeds in a straight line southeasterly to the intersection of the township line dividing Township 8 South from Township 9 South with the range line dividing Range 3 East from Range 4 East. (San Jose map)

(26) From this point, the boundary proceeds in a straight line southeasterly to the intersection of Coyote Creek with the township line dividing Township 9 South from Township 10 South. (San Jose map)

(27) From this point, the boundary proceeds in a straight line southeasterly to the intersection of the 37°00′ North latitude parallel with State Route 152. (San Jose map)

(28) The boundary follows the 37°00′ North latitude parallel east to the range line dividing Range 5 East from Range 6 East. (Monterey map)

(29) The boundary follows this range line south to the San Benito-Santa Clara County line. (Monterey map)

(30) The boundary follows the San Benito-Santa Clara County line easterly to the San Benito-Merced County line. (Monterey map)

(31) The boundary follows the San Benito-Merced County line southeasterly to the conjunction of the county lines of San Benito, Merced, and Fresno Counties. (Monterey map)

(32) From this point, the boundary proceeds in a southwesterly extension of the Merced-Fresno County line to Salt Creek. (Monterey map)

(33) From this point, the boundary proceeds in a straight line southeasterly to the conjunction of the county lines of Monterey, San Benito, and Fresno Counties. (Monterey map)

(34) The boundary follows the Monterey-Fresno County line southeasterly to the Monterey-Kings County line. (Monterey and San Luis Obispo maps)

(35) The boundary follows the Monterey-Kings County line southeasterly to the San Luis Obispo-Kings County line. (San Luis Obispo map)

(36) The boundary follows the San Luis Obispo-Kings County line east to the San Luis Obispo-Kern County line. (San Luis Obispo map)

(37) The boundary follows the San Luis Obispo-Kern County line south, then east, then south to the point at which the county line diverges easterly from the range line dividing Range 17 East from Range 18 East. (San Luis Obispo map)

(38) The boundary follows this range line south to the township line dividing Township 28 South from Township 29 South. (San Luis Obispo map)

(39) The boundary follows the township line west to the range line dividing Range 13 East from Range 14 East. (San Luis Obispo map)

(40) The boundary follows this range line south to the boundary of the Los Padres National Forest. (San Luis Obispo map)

(41) The boundary follows the boundary of the Los Padres National Forest

southeasterly to the creek of Toro Canyon. (San Luis Obispo, Santa Maria, and Los Angeles maps)

(42) The boundary follows the creek of Toro Canyon southerly to the Pacific Ocean. (Los Angeles map)

(43) The boundary follows the shoreline of the Pacific Ocean and Monterey Bay northerly to the beginning point. (Los Angeles, Santa Maria, San Luis Obispo, and Monterey maps)

[T.D. ATF–216, 50 FR 43130, Oct. 24, 1985, as amended by T.D. ATF–407, 64 FR 3023, Jan. 20, 1999; T.D. TTB–48, 71 FR 34524, June 15, 2006]

### §9.76 Knights Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Knights Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Knights Valley viticultural area are four U.S.G.S. maps. They are—

(1) ''Mount St. Helena Quadrangle, California,'' 7.5 minute series, 1959 (Photoinspected 1973);

(2) ''Jimtown Quadrangle, California,'' 7.5 minute series, 1955 (Photorevised 1975);

(3) ''Mark West Springs Quadrangle, California,'' 7.5 minute series, 1958; and

(4) ''Detert Reservoir Quadrangle, California,'' 7.5 minute series, 1958 (Photorevised 1980).

(c) *Boundary.* The Knights Valley viticultural area is located in northeastern Sonoma County, California. From the beginning point lying at the intersection of the Sonoma/Lake County line and the north line of Section 11, Township 10 North (T. 10 N.), Range 8 West (R. 8 W.) on the ''Mount St. Helena Quadrangle'' map, the boundary runs—

(1) Westerly along the north line of Sections 11, 10, and 9, T. 10 N., R. 8 W. to the northwest corner of Section 9 on the ''Jimtown Quadrangle'' map;

(2) Then southerly along the west line of Sections 9, 16, 21, 28, and 33, T. 10 N., R. 8 W., continuing along the west line of Section 4, T. 9 N., R. 8 W. to the southwest corner thereof;

(3) Then easterly along the south line of Section 4 to the southeast corner thereof on the ''Mount St. Helena Quadrangle'' map;

(4) Then southerly along the west line of Sections 10, 15, and 22, T. 9 N., R. 8 W. to the point of intersection with Franz Creek in Section 22 on the ''Mark West Springs Quadrangle'' map;

(5) Then easterly along Franz Creek approximately 14,000 feet to the centerline of Franz Valley Road;

(6) Then southerly along the centerline of Franz Valley Road to the point of intersection with the west line of Section 6, T. 8 N., R. 7 W.;

(7) Then southerly along the west line of Section 6 to the southwest corner thereof;

(8) Then easterly along the south line of Sections 6, 5, and 4, T. 8 N., R. 7 W. to the southeast corner of Section 4;

(9) Then northerly along the east line of Section 4 to the point of intersection with the Sonoma/Napa County line;

(10) Then northerly along the meanders of the Sonoma/Napa County line on the ''Mark West Springs Quadrangle,'' ''Detert Reservoir Quadrangle,'' and ''Mount St. Helena Quadrangle'' maps to the point of intersection with the Lake County line on the ''Mount St. Helena Quadrangle'' map;

(11) Then northerly along the meanders of the Sonoma/Lake County line on the ''Mount St. Helena Quadrangle'' and ''Detert Reservoir Quadrangle'' maps to the point of beginning.

[T.D. ATF–158, 48 FR 48816, Oct. 21, 1983]

### §9.77 Altus.

(a) *Name.* The name of the viticultural area described in this section is ''Altus.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Altus viticultural area are five U.S.G.S. maps in the 7.5 minute series. They are titled:

(1) Ozark Quadrangle, 1966.

(2) Coal Hill Quadrangle, 1961.

(3) Hartman Quadrangle, 1961.

(4) Hunt Quadrangle, 1963.

(5) Watalula Quadrangle, 1973.

(c) *Boundary*—(1) *General.* The Altus viticultural area is located in Arkansas. The starting point of the following boundary description is the crossing of the Missouri Pacific Railroad over Gar Creek, near the Arkansas River at the southeast corner of the city of Ozark, Arkansas (on the Ozark Quadrangle map).

(2) *Boundary Description:*

(i) From the crossing of the Missouri Pacific Railroad over Gar Creek, following the railroad tracks eastward to the crossing over Horsehead Creek (on the Hartman Quadrangle map).

(ii) From there northward along Horsehead Creek to the merger with Dirty Creek (on the Coal Hill Quadrangle map).

(iii) From there generally northwestward along Dirty Creek to Arkansas Highway 352 (where Dirty Creek passes under the highway as a perennial stream—on the Hunt Quadrangle map).

(iv) From there along Highway 352 westward to Arkansas Highway 219 (on the Watalula Quadrangle map).

(v) Then southward along Highway 219 to Gar Creek (on the Ozark Quadrangle map).

(vi) Then southeastward along Gar Creek to the beginning point.

[T.D. ATF–176, 49 FR 22471, May 30, 1984]

## § 9.78 Ohio River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Ohio River Valley.''

(b) *Approved maps.* The approved maps for determining the boundary of the Ohio River Valley viticultural area are 12 U.S.G.S. topographic maps in the scale 1:250,000, as follows:

(1) Paducah NJ 16–7 (dated 1949, revised 1969);

(2) Belleville NJ 16–4 (dated 1958, revised 1977);

(3) Vincennes NJ 16–5 (dated 1956, revised 1969);

(4) Louisville NJ 16–6 (dated 1956, revised 1969);

(5) Cincinnati NJ 16–3 (dated 1953, revised 1974);

(6) Columbus NJ 17–1 (dated 1967);

(7) Clarksburg NJ 17–2 (dated 1956, limited revision 1965);

(8) Canton NJ 17–11 (dated 1957, revised 1969);

(9) Charleston NJ 17–5 (dated 1957, limited revision 1965);

(10) Huntington NJ 17–4 (dated 1957, revised 1977);

(11) Winchester NJ 16–9 (dated 1957, revised 1979); and

(12) Evansville NJ 16–8 (dated 1957, revised 1974);

(c) *Boundary.* The Ohio River Valley viticultural area is located in Indiana, Ohio, West Virginia and Kentucky. The boundary description in paragraphs (c)(1)–(c)(21) of this section includes, for each point, the name of the map sheet (in parentheses) on which the point can be found.

(1) The beginning point is the point at which the Kentucky, Illinois, and Indiana State lines converge at the confluence of the Wabash River and the Ohio River (Paducah map).

(2) The boundary follows the Illinois-Indiana State line northerly (across the Belleville map) to Interstate Route 64 (Vincennes map).

(3) From the intersection of Interstate Route 64 and the Wabash River, the boundary proceeds in a straight line northeasterly to the town of Oatsville in Pike County, Indiana (Vincennes map).

(4) The boundary proceeds in a straight line southeasterly to the point in Spencer County, Indiana, at which State Route 162 diverges northerly from U.S. Route 460, which is knownlocally as State Route 62 (Vincennes map).

(5) The boundary proceeds in a straight line northeasterly to the point in Harrison County, Indiana, at which State Route 66 diverges northerly from State Route 64 (Vincennes map).

(6) The boundary proceeds in a straight line northeasterly (across the Louisville map) to the town of New Marion in Ripley County, Indiana (Cincinnati map).

(7) The boundary proceeds in a straight line northerly to the town of Clarksburg in Decatur County, Indiana (Cincinnati map).

(8) The boundary proceeds in a straight line easterly to the town of Ridgeville in Warren County, Ohio (Cincinnati map).

(9) The boundary proceeds in a straight line southeasterly to the town of Chapman in Jackson County, Ohio (Columbus map).

(10) The boundary proceeds in a straight line northeasterly to the town identified on the map as Hesboro, also known as Ilesboro, in Hocking County, Ohio (Columbus map).

(11) The boundary proceeds in a straight line northeasterly to the town

of Tacoma in Belmont County, Ohio (Clarksburg map).

(12) The boundary proceeds in a straight line easterly to the town of Valley Grove in Ohio County, West Virginia (Canton map).

(13) The boundary proceeds in a straight line southerly to the town of Jarvisville in Harrison County, West Virginia (Clarksburg map).

(14) The boundary proceeds in a straight line southwesterly to the town of Gandeeville in Roane County West Virginia (Charleston map).

(15) The boundary proceeds in a straight line southwesterly to the town of Atenville in Lincoln County West Virginia (Huntington map).

(16) The boundary proceeds in a straight line westerly to the town of Isonville in Elliott County, Kentucky (Huntington map).

(17) The boundary proceeds in a straight line northwesterly to the town of Berlin in Bracken County, Kentucky (Louisville map).

(18) The boundary proceeds in a straight line westerly to the town of Dry Ridge in Grant County, Kentucky (Louisville map).

(19) The boundary proceeds in a straight line southwesterly to the town of Crest in Hardin County, Kentucky (Winchester map).

(20) The boundary proceeds in a straight line westerly to the intersection of State Route 56 and U.S. Route 41 in the city of Sebree in Webster County, Kentucky (Evansville map).

(21) The boundary proceeds in a straight line northwesterly to the beginning point (Paducah map).

[T.D. ATF–144, 48 FR 40379, Sept. 7, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### §9.79 Lake Michigan Shore.

(a) *Name.* The name of the viticultural area described in this section is ''Lake Michigan Shore.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Michigan Shore viticultural area are four U.S.G.S. maps, 1:250,000 series. They are entitled: (1) Chicago (1953, revised 1970); (2) Fort Wayne (1953, revised 1969); (3) Racine (1958, revised 1969); and (4) Grand Rapids (1958, revised 1980).

(c) *Boundaries.* The Lake Michigan Shore viticultural area is located in the southwestern corner of the State of Michigan. The boundaries of the Lake Michigan Shore viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S maps, are as follows:

(1) Starting at the most northern point, the intersection the Kalamazoo River with Lake Michigan.

(2) Then southeast along the winding course of the Kalamazoo River for approximately 35 miles until it intersects the Penn Central railroad line just south of the City of Otsego.

(3) Then south along the Penn Central railroad line, through the City of Kalamazoo, approximately 25 miles until it intersects the Grand Trunk Western railroad line at the community of Schoolcraft.

(4) Then southwest along the Grand Trunk Western railroad line approximately 35 miles to the Michigan/ Indiana State line.

(5) Then west along the Michigan-Indiana State line approximately 38 miles until it meets Lake Michigan.

(6) Then north along the eastern shore of Lake Michigan approximately 72 miles to the beginning point.

[T.D. ATF–153, 48 FR 46526, Oct. 13, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### §9.80 York Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''York Mountain.''

(b) *Approved map.* The approved map for the York Mountain viticultural area is the U.S.G.S. map entitled ''York Mountain Quadrangle,'' 7.5 minute series (topographic), 1949 (photorevised 1979).

(c) *Boundaries.* The York Mountain viticultural area is located in San Luis Obispo County, California. The boundaries are as follows:

(1) From the beginning point at the northwest corner of the York Mountain Quadrangle map where the Dover Canyon Jeep Trail and Dover Canyon Road intersect, proceed east along Dover Canyon Road 1.5 miles to the western boundary line of Rancho Paso de Robles;

(2) Follow the western boundary line of Rancho Paso de Robles southwest 6.0 miles to where the boundary joins Santa Rita Creek;

(3) Turn right at Santa Rita Creek and follow the creek 5 miles to where the waters of Dover Canyon and Santa Rita Creek meet; and

(4) Then proceed north along Dover Canyon Creek to its intersection with Dover Canyon Road, then following Dover Canyon Road (which becomes Dover Canyon Jeep Trail) back to the point of beginning.

[T.D. ATF–143, 48 FR 38463, Aug. 24, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### § 9.81 Fiddletown.

(a) *Name.* The name of the viticultural area described in this section is ''Fiddletown.''

(b) *Approved maps.* The approved maps for the Fiddletown viticultural area are four U.S.G.S. maps entitled:

(1) Fiddletown, CA, 1949, 7.5 minute series;

(2) Amador City, CA, 1962, 7.5 minute series;

(3) Pine Grove, CA, 1948 (photoinspected 1973), 7.5 minute series;

(4) Aukum, CA, 1952 (photorevised 1973), 7.5 minute series.

(c) *Boundaries.* The Fiddletown viticultural area is located in Amador County, California. The boundaries are as follows:

(1) From the beginning point at the north boundary where Fiddletown Shenandoah Road crosses Big Indian Creek in Section 28, Township 8 N, Range 11 E, proceed in a southwesterly direction following Big Indian Creek through the southeast corner of Section 29, crossing the northwest corner of Section 32 to where it meets Section 31;

(2) Then in a southerly direction follow the Section line between Sections 31 and 32, Township 8 N, Range 11 E, and Sections 5 and 6, 7 and 8, Township 7 N, Range 11 E, to where the Section line meets the South Fork of Dry Creek;

(3) Then following the South Fork of Dry Creek in an easterly direction crossing the lower portions of Sections 8, 9, 10, 11, 12 and into Township 8 N, Range 12 E, at Section 7 and across Section 7 to where it meets Section 8;

(4) Then north following the Section line between Sections 7 and 8, 5 and 6 into Township 8 N, Range 12 E, between Sections 31 and 32, to Big Indian Creek; and

(5) Then following Big Indian Creek in a northwesterly direction through Sections 31, 30, 25, 26 and 27, returning to the point of beginning.

[T.D. ATF–147, 48 FR 45239, Oct. 4, 1983, as amended by T.D. ATF–249, 52 FR 5959, Feb. 27, 1987]

### § 9.82 Potter Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Potter Valley.''

(b) *Approved map.* The approved maps for the Potter Valley viticultural area are the U.S.G.S. maps entitled ''Potter Valley Quadrangle, California,'' 1960, and ''Ukiah Quadrangle, California,'' 1958, 15 minute series (topographic).

(c) *Boundaries.* The Potter Valley viticultural area is located in Mendocino County, California. The boundaries are as follows:

(1) From the beginning point at the southeast corner of quadrant 36 and southwest corner of quadrant 32 (a point where Mendocino and Lake Counties border on the T. 17 N.–T. 16 N. township line), the boundary runs northwest to the northeastern corner of quadrant 4, on the T. 18 N.–T. 17 N. township line;

(2) Then west to the northwest corner of quadrant 1;

(3) Then south to the southwest corner of quadrant 36;

(4) Then east to R. 12 W.–R. 11 W. range line at the southeast corner of quadrant 36;

(5) Then south to Highway 20;

(6) Then southeast on Highway 20 to where Highway 20 passes from quadrant 20 to quadrant 21; and

(7) Thence northeast, returning to the point of beginning.

[T.D. ATF–151, 48 FR 46521, Oct. 13, 1983]

### § 9.83 Lake Erie.

(a) *Name.* The name of the viticultural area described in this section is ''Lake Erie.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Erie viticultural area are four U.S.G.S. maps. They are titled:

(1) ''Toledo,'' scale 1:250,000 (1956, revised 1978);

(2) ''Cleveland,'' scale 1:250,000 (1956, revised 1972);

(3) ''Erie,'' scale 1:250,000 (1959, revised 1972); and

(4) ''Buffalo,'' scale 1:250,000 (1962).

(c) *Boundaries.* The Lake Erie viticultural area is located along the shore and on the islands of Lake Erie across the States of New York, Pennsylvania, and Ohio. The beginning point is where Buffalo Creek empties into Lake Erie at Buffalo Harbor.

(1) From the beginning point the boundary proceeds up Buffalo Creek to the confluence of Cazenovia Creek.

(2) The boundary proceeds up Cazenovia Creek and thence up the west branch of Cazenovia Creek to a point approximately one mile north of Colden, New York, exactly 12 statute miles inland from any point on the shore of Lake Erie.

(3) The boundary proceeds southwestward and along a line exactly 12 statute miles inland from any point on the shore of Lake Erie to a point approximately one mile north of Dayton, New York, where it intersects the 1,300-foot contour line.

(4) The boundary proceeds generally southwestward along the 1,300-foot contour line to a point almost two miles north-northwest of Godard, Pennsylvania, exactly six statute miles inland from any point on the shore of Lake Erie.

(5) The boundary proceeds southwestward along a line exactly six statute miles inland from any point on the shore of Lake Erie to the point where it intersects Ohio Route 45 near the intersection with Interstate 90.

(6) The boundary proceeds southward along Ohio Route 45 to a point exactly 14 statute miles inland from any point on the shore of Lake Erie approximately one mile north of Rock Creek, Ohio.

(7) The boundary proceeds southwestward, then westward, then northwestward along a line 14 statute miles inland from any point on the shore of Lake Erie to the point where it intersects the Ohio-Michigan boundary just north of Centennial, Ohio.

(8) The boundary then follows the Ohio-Michigan border in an easterly direction to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to the mouth of the Portage River just north of Port Clinton. Thence due north in a straight line to the United States-Canada border. Thence in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island.

(9) The boundary then proceeds due south until it reaches the shoreline of Lake Erie. Thence the boundary follows the lakeshore in a generally northeasterly direction to the beginning point at the mouth of Buffalo Creek.

[T.D. ATF–156, 48 FR 48819, Oct. 21, 1983]

## §9.84 Paso Robles.

(a) *Name.* The name of the viticultural area described in this section is ''Paso Robles''.

(b) *Approved map.* The map showing the boundaries of the Paso Robles viticultural area is: ''San Luis Obispo'', NI 10–3, scale 1:250,000 (1956, revised 1969).

(c) *Boundaries.* The Paso Robles viticultural area is located within San Luis Obispo County, California. From the point of beginning where the county lines of San Luis Obispo, Kings and Kern Counties converge, the county line also being the township line between T.24S. and T.25S., in R.16E.:

(1) Then in a westerly direction along this county line for 42 miles to the range line between R.9E. and R.10E.;

(2) Then in a southerly direction for 12 miles along the range line to the southwest of corner of T.26S. and R.10E.;

(3) Then in a southeasterly direction, approximately 5.5 miles to a point of intersection of the Dover Canyon Jeep Trail and Dover Canyon Road;

(4) Then in an easterly direction along Dover Canyon Road, approximately 1.5 miles, to the western border line of Rancho Paso de Robles;

(5) Then, following the border of the Paso Robles land grant, beginning in

an easterly direction, to a point where it intersects the range line between R.11E. and R.12E.;

(6) Then southeasterly for approximately 16.5 miles to the point of intersection of the township line between T.29S. and T.30S. and the range line between R.12E. and R.13E.;

(7) Then in an easterly direction for approximately 6 miles to the range line between R.13E. and R.14E.;

(8) Then in a northerly direction for approximately 6 miles to the township line between T.28S. and T.29S.;

(9) Then in an easterly direction for approximately 18 miles to the range line between R.16E. and R.17E.;

(10) Then in a northerly direction for approximately 24 miles to the point of beginning.

[T.D. ATF–148, 48 FR 45241, Oct. 4, 1983, as amended by T.D. ATF–377, 61 FR 29953, June 13, 1996]

## § 9.85 Willow Creek.

(a) *Name.* The name of the viticultural area described in this section is ''Willow Creek.''

(b) *Approved map.* The map showing the boundary of the Willow Creek viticultural area is: ''Willow Creek Quadrangle,'' California, U.S.G.S. 15 minute series (1952).

(c) *Boundaries.* The Willow Creek viticultural area is located within portions of Humboldt and Trinity Counties, California. From the point of beginning where the 1,000-foot contour line intersects Kirkham Creek (directly north of section 19, T.7 N./R.5E.), beginning in a southerly direction, the boundary line the 1,000-foot contour line to;

(1) The point of intersection between the 1,000-foot contour line and the north section line of section 27, T.6N./R.5E.;

(2) Then in a straight, north easterly line to the point of intersection between the 1,000-foot contour line and the east section line of section 13, T.6N./R.5E.;

(3) Then in a straight, northwesterly line to the point of intersection between the 1,000-foot contour line and the north section line of section 11, T.6N./R.5E.;

(4) Then in a straight, south-southwesterly line to the point of intersection between the 1,000-foot contour line and the east section line of section 15, T.6N./R.5E.;

(5) Then following the 1,000-foot contour line, beginning in a westerly direction, to the point of intersection between the 1,000-foot contour line and Coons Creek;

(6) Then in a straight, westerly line to the point of beginning.

[T.D. ATF–141, 48 FR 37376, Aug. 18, 1983]

## § 9.86 Anderson Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Anderson Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Anderson Valley viticultural area are three U.S.G.S. maps. They are titled:

(1) ''Navarro Quadrangle, California—Mendocino Co.,'' 15 minute series (1961);

(2) ''Boonville Quadrangle, California—Mendocino Co.,'' 15 minute series (1959); and

(3) ''Ornbaun Valley Quadrangle, California,'' 15 minute series (1960).

(c) *Boundaries.* The Anderson Valley viticultural area is located in the western part of Mendocino County, California. The beginning point is at the junction of Bailey Gulch and the South Branch North Fork Navarro River in Section 8, Township 15 North (T.15N.), Range 15 West (R.15W.), located in the northeast portion of U.S.G.S. map ''Navarro Quadrangle.''

(1) From the beginning point, the boundary runs southeasterly in a straight line to an unnamed hilltop (elevation 2015 feet) in the northeast corner of Section 9, T.13N., R.13W., located in the southeast portion of U.S.G.S. map ''Boonville Quadrangle'';

(2) Then southwesterly in a straight line to Benchmark (BM) 680 in Section 30, T.13N., R.13W., located in the northeast portion of U.S.G.S. map ''Ornbaun Valley Quadrangle'';

(3) Then northwesterly in a straight line to the intersection of an unnamed creek and the south section line of Section 14, T.14N., R.15W., located in the southwest portion of U.S.G.S. map ''Boonville Quadrangle'';

(4) Then in a westerly direction along the south section lines of Sections 14,

15, and 16, T.14N., R.15W., to the intersection of the south section line of Section 16 with Greenwood Creek, approximately .2 miles west of Cold Springs Road which is located in the southeast portion of U.S.G.S. map ''Navarro Quadrangle'';

(5) Then in a southwesterly and then a northwesterly direction along Greenwood Creek to a point in Section 33 directly south (approximately 1.4 miles) of Benchmark (BM) 1057 in Section 28, T.15N., R.16W.;

(6) Then directly north in a straight line to Benchmark (BM) 1057 in Section 28, T.15N., R.16W.;

(7) Then in a northeasterly direction in a straight line to the beginning point.

[T.D. ATF–139, 48 FR 37370, Aug. 18, 1983]

### §9.87 Grand River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Grand River Valley.''

(b) *Approved map.* The approved map for determining the boundary of the Grand River Valley viticultural area is the U.S.G.S. topographic map in the scale of 1:250,000, entitled Cleveland, number NK 17–8, dated 1956, revised 1972.

(c) *Boundary.* The Grand River Valley viticultural area is located in the following Ohio counties: Lake, Geauga, and Ashtabula. The viticultural area consists of all of the land within the Lake Erie viticultural area, described in §9.83, which is also within 2 statute miles, in any direction, of the Grand River. Specifically, the Grand River Valley viticultural area consists of all of the land west of Ohio Route 45 which is within 2 statute miles, in any direction, of the Grand River, and which is also within 14 statute miles inland from any point on the shore of Lake Erie.

[T.D. ATF–157, 48 FR 48821, Oct. 21, 1983]

### §9.88 Pacheco Pass.

(a) *Name.* The name of the viticultural area described in this section is ''Pacheco Pass.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of Pacheco Pass viticultural area are two U.S.G.S. maps. They are titled:

(1) San Felipe Quadrangle, 7.5 minute series, 1955 (photorevised 1971).

(2) Three Sisters Quadrangle, 7.5 minute series, 1954 (photorevised 1971).

(c) *Boundary*—(1) *General.* The Pacheco Pass viticultural area is located in California. The starting point of the following boundary description is the crossing of Pacheco Creek under California Highway 156, about 4 miles north of Hollister Municipal Airport, in San Benito County, California.

(2) *Boundary Description.* (i) From the starting point northwestward along Pacheco Creek to the intersection with the straight-line extension of Barnheisel Road. (NOTE. This is an old land grant boundary and appears on the U.S.G.S. map as the western boundary of an orchard.)

(ii) From there in a straight line northeastward to the intersection of Barnheisel Road and California Highway 156.

(iii) From there northward along Highway 156 to California Highway 152 (''Pacheco Pass Highway'').

(iv) Then northward along Pacheco Pass Highway to the 37° latitude line.

(v) Then eastward along that latitude line to the land line R. 5E./R. 6E.

(vi) Then southward along that land line, crossing Foothill Road, and continuing southward to a point exactly 2,300 feet south of Foothill Road.

(vii) From there is a straight line to the starting point.

[T.D. ATF–167, 49 FR 9169, Mar. 12, 1984]

### §9.89 Umpqua Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Umpqua Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Umpqua Valley viticultural area are two U.S.G.S. maps. They are titled:

(1) ''Roseburg,'' scale 1:250,000 (1958, revised 1970); and

(2) ''Medford,'' scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Umpqua Valley viticultural area is located entirely within Douglas County, Oregon, which is in the southwest part of the State. The beginning point is the intersection of Interstate Highway 5 with the Douglas/Lane County line in Township 21

South (T21S), Range 4 West (R4W) on the ''Roseburg'' map.

(1) From the beginning point, the boundary proceeds north along the Douglas/Lane County line approximately .5 miles to the 1,000-foot contour line;

(2) Thence northwest along the 1,000-foot contour line to the Douglas/Lane County line; thence west along the Douglas/Lane County line approximately 2.5 miles, returning to the 1,000-foot contour line; thence in a generally westerly direction along the 1,000-foot contour line to the R9W/R10W range line;

(3) Thence south along the R9W/R10W range line approximately 2.75 miles to the center of the Umpqua River; thence along a straight line in an easterly direction approximately 6.25 miles to the intersection of range line R8W/R9W with the center of the Umpqua River; thence south along range line R8W/R9W approximately 3.5 miles to its intersection with township line T22S/T23S;

(4) Thence southeast approximately 8.5 miles along a straight line to the intersection of township line T23S/T24S with range line R7W/R8W; thence south along the R7W/R8W range line approximately 8 miles to its intersection with the 1,000-foot contour line; thence in a southeasterly direction in a straight line approximately 3.5 miles toward the intersection of township line T25S/T26S with range line R6W/R7W, returning to the 1,000-foot contour line;

(5) Thence in a southerly direction along the 1,000-foot contour line to the intersection of township line T27S/T28S with range line R7W/R8W; thence in a southwesterly direction in a straight line approximately 3.5 miles toward the intersection of township line T28S/T29S with range line R8W/R9W, returning to the 1,000-foot contour line; thence south along the 1,000-foot contour line to its intersection with township line T29S/T30S;

(6) Thence east along township line T29S/T30S approximately .33 miles, rejoining the 1,000-foot contour line; thence in a northerly and eventually a southerly direction along the 1,000-foot contour line past the town of Riddle on the ''Medford'' map to range line R6W/R7W; thence south along the R6W/R7W range line approximately .5 miles back to the 1,000-foot contour line;

(7) Thence in an easterly, westerly, and eventually a northerly direction along the 1,000-foot contour line to a point approximately 3.5 miles east of Dillard, where the contour line crosses Interstate Highway 5 on the ''Roseburg'' map; thence northeast along Interstate Highway 5 approximately .25 mile, returning to the 1,000-foot contour line; thence in a generally northeasterly, southeasterly, northwesterly, and eventually a northeasterly direction along the 1,000-foot contour line past the town of Idleyld Park to the R2W/R3W range line;

(8) Thence north along range line R2W/R3W approximately 1.75 miles to the T25S/T26S township line; thence west along township line T25S/T26S approximately .25 mile, returning to the 1,000-foot contour line; thence in a generally westerly and then a northerly direction along the 1,000-foot contour line up the valley of Calapooya Creek to the R3W/R4W range line; thence north along range line R3W/R4W approximately 2.25 miles, back to the 1,000-foot contour line;

(9) Thence in a westerly and then a northerly direction along the 1,000-foot contour line to the T23S/T24S township line; thence east along the T23S/T24S township line approximately 2.75 miles to the 1,000-foot contour line; thence in a northerly direction along the 1,000-foot contour line to its intersection with the Douglas/Lane County line; thence north along the Douglas/Lane County line approximately .75 mile to the point of beginning.

[T.D. ATF–170, 49 FR 12246, Mar. 29, 1984]

### § 9.90 Willamette Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Willamette Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Willamette Valley viticultural area are three U.S.G.S. Oregon maps scaled 1:250,000. They are entitled:

(1) ''Vancouver,'' Location Diagram NL 10–8, 1958 (revised 1974).

(2) ''Salem,'' Location Diagram NL 10–11, 1960 (revised 1977).

(3) ''Roseburg,'' Location Diagram NL 10–2, 1958 (revised 1970).

(c) *Boundaries.* The Willamette Valley viticultural area is located in the northwestern part of Oregon, and is bordered on the north by the Columbia River, on the west by the Coast Range Mountains, on the south by the Calapooya Mountains, and on the east by the Cascade Mountains, encompassing approximately 5,200 square miles (3.3 million acres). The exact boundaries of the viticultural area, based on landmarks and points of reference found on the approved maps, are as follows: From the beginning point at the intersection of the Columbia/Multnomah County line and the Oregon/Washington State line;

(1) West along the Columbia/Multnomah County line 8.5 miles to its intersection with the Washington/Multnomah County line;

(2) South along the Washington County line 5 miles to its intersection with the 1,000 foot contour line;

(3) Northwest (15 miles due northwest) along the 1,000 foot contour line to its intersection with State Highway 47, .5 mile north of ''Tophill'';

(4) Then, due west from State Highway 47 one-quarter mile to the 1,000 foot contour line, continuing south and then southwest along the 1,000 foot contour line to its intersection with the Siuslaw National Forest (a point approximately 43 miles south and 26 miles west of ''Tophill'' ), one mile north of State Highway 22;

(5) Due south 6.5 miles to the 1,000 foot contour line on the Lincoln/Polk County line;

(6) Continue along the 1,000 foot contour line (approximately 23 miles) east, south, and then west, to a point where the Polk County line is intersected by the Lincoln/Benton County line;

(7) South along Lincoln/Benton County line, 11 miles to its intersection with the Siuslaw National Forest line;

(8) East along the Siuslaw National Forest line six miles, and then south along the Siuslaw National Forest line six miles to State Highway 34 and the 1,000 foot contour line;

(9) South along the 1,000 foot contour line to its intersection with Township line T17S/T18S (31 miles southwest, and one mile west of State Highway 126);

(10) East along T17S/T18S 4.5 miles to Range line R6W/R7W, south along this range line 2.5 miles to the 1,000 foot contour line;

(11) Southeast along the 1,000 foot contour line to R5W/R6W (approximately six miles); southeast from this point eight miles to the intersection of R4W/R5W and T19S/T20S;

(12) East along T19S/T20S 1.5 miles to the 1,000 foot contour line;

(13) Following the 1,000 foot contour line north around Spencer Butte, and then south to a point along the Lane/Douglas County line one-half mile north of Interstate Highway 99;

(14) South along the Lane/Douglas County line 1.25 miles to the 1,000 foot contour line;

(15) Following the 1,000 foot contour line around the valleys of Little River, Mosby Creek, Sharps Creek and Lost Creek to the intersection of R1W/R1E and State Highway 58);

(16) North along R1W/R1E, six miles, until it intersects the 1,000 foot contour line just north of Little Fall Creek;

(17) Continuing along the 1,000 foot contour line around Hills Creek, up the southern slope of McKenzie River Valley to Ben and Kay Dorris State Park, crossing over and down the northern slope around Camp Creek, Mohawk River and its tributaries, Calapooia River (three miles southeast of the town of Dollar) to a point where Wiley Creek intersects R1E/R1W approximately one mile south of T14S/T13S;

(18) North along R1E/R1W 7.5 miles to T12S/T13S at Cedar Creek;

(19) West along T12S/T13S four miles to the 1,000 foot contour line;

(20) Continuing in a general northerly direction along the 1,000 foot contour line around Crabtree Creek, Thomas Creek, North Santiam River (to its intersection with Sevenmile Creek), and Little North Santiam River to the intersection of the 1,000 foot contour line with R1E/R2E (approximately one mile north of State Highway 22);

(21) North along R1E/R2E (through a small portion of Silver Falls State Park) 14 miles to T6S/T7S;

(22) East along T6S/T7S six miles to R2E/R3E;

(23) North along R2E/R3E six miles to T5S/T6S;

(24) Due northeast 8.5 miles to the intersection of T4S/T5S and R4E/R3E;

(25) East along T4S/T5S six miles to R4E/R5E;

(26) North along R4E/R5E six miles to T3S/T4S;

(27) East along T3S/T4S six miles to R5E/R6E;

(28) North along R5E/R6E 10.5 miles to a point where it intersects the Mount Hood National Forest boundary (approximately three miles north of Interstate Highway 26);

(29) West four miles and north one mile along the forest boundary to the 1,000 foot contour line (just north of Bull Run River);

(30) North along the 1,000 foot contour line, into Multnomah County, to its intersection with R4E/R5E;

(31) Due north approximately three miles to the Oregon/Washington State line; and

(32) West and then north, 34 miles, along the Oregon/Washington State line to the beginning point.

[T.D. ATF–162, 48 FR 54221, Dec. 1, 1983]

### § 9.91 Walla Walla Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Walla Walla Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Walla Walla Valley viticultural area are two U.S.G.S. maps, in the scale 1:100,000. They are entitled:

(1) ''Walla Walla,'' Washington-Oregon, 1980

(2) ''Pendleton,'' Oregon-Washington, 1983

(c) *Boundaries.* The Walla Walla Valley viticultural area is located within Walla Walla County in Washington State and Umatilla County in Oregon. It is entirely within the Columbia Valley viticultural area. The boundaries are as follows:

(1) The beginning point is on the Walla Walla quadrangle map, in T8N/37E, at the point where the 2,000 foot contour line intersects with an unnamed light duty road approximately 250 feet east of U.S. Highway 12 in Minnick, Washington (on maps measured in metric units, this elevation is between the 600 and 650 meter contour lines),

(2) Then the boundary goes northwest in a straight line for 7 kilometers (km), until it intersects with a power line that runs between T8N and T9N,

(3) Then the boundary follows the power line west for 8 km, where it diverges from the power line and goes west-southwest in a straight line for approximately 33 km to the intersection of 2 unnamed light duty roads in the area marked Ninemile Canyon in the southwest corner of T8N/R33E,

(4) Then the boundary goes south-southwest in a straight line approximately 8 km, until it reaches U.S. Highway 12, about 2.5 km east of Reese, Washington,

(5) Then the boundary goes south in a straight line for approximately 8 km, crossing the Washington-Oregon state line and moving onto the Pendleton U.S.G.S. map, where it meets the 450 m contour line in T6N/R32E, near an unnamed peak with an elevation of 461 m,

(6) Then the boundary follows the 450 m contour line in a generally southeasterly direction until it intersects Dry Creek in T4N/R35E,

(7) Then the boundary goes southeast along Dry Creek (Oregon) until it reaches the 2000 foot contour line,

(8) Then the boundary follows the 2000 foot contour line in a generally northeasterly direction, crossing the Oregon-Washington state line and returning to the Walla Walla U.S.G.S map, until it reaches the point of beginning.

[T.D. ATF–441, 66 FR 11542, Feb. 26, 2001]

### § 9.92 Madera.

(a) *Name.* The name of the viticultural area described in this section is ''Madera.''

(b) *Approved maps.* The approved maps for determining the boundary of the Madera viticultural area are eleven U.S.G.S. maps. They are entitled:

(1) ''Clovis, Cal.,'' 7½ minute series, edition of 1964, photorevised 1972;

(2) ''Fresno North, Cal.,'' 7½ minute series, edition of 1965, photorevised 1972;

(3) ''Friant, Cal.,'' 7½ minute series, edition of 1964;

(4) ''Lanes Bridge, Cal.,'' 7½ minute series, edition of 1964, photoinspected 1973;

(5) ''Gregg, Cal.,'' 7½ minute series, edition of 1965;

(6) ''Madera, Cal.,'' 7½ minute series, edition of 1963;

(7) ''Kismet, Cal.,'' 7½ minute series, edition of 1961;

(8) ''Raynor Creek, Cal.,'' 7½ minute series, edition of 1961;

(9) ''Fresno, Cal.,'' scaled 1:250,000, edition of 1962, revised 1971;

(10) ''Monterey, Cal.,'' scaled 1:250,000, edition of 1974; and

(11) ''San Jose, Cal.,'' scaled 1:250,000, edition of 1962, revised 1969.

(c) *Boundaries.* The Madera viticultural area is located in Madera and Fresno Counties, California. The beginning point is found on the ''Fresno North,'' 7½ minute series U.S.G.S. map at the point where the San Joaquin River intersects the section line dividing sections 20 and 29, and sections 21 and 28, T. 12 S., R. 20 E.;

(1) Then east approximately 6 miles following the section line and Shepherd Avenue to the intersection with Sunnyside Road;

(2) Then north approximately 7 miles following Sunnyside Road and continuing along the section line to the point of intersection of section 16, 17, 20, and 21, T.11S., R 21E.;

(3) Then west approximately 17.6 miles following the section line and continuing along Avenue 15 to the intersection with the Atchison, Topeka and Santa Fe Railroad;

(4) Then northwest following the Atchison, Topeka and Santa Fe Railroad to Road 26;

(5) Then north following Road 26 and continuing north in a straight line to the Chowchilla River in the ''Raynor Creek'' 7½ minute series U.S.G.S. map, and in the ''San Jose'' scaled 1:250,000 U.S.G.S. map;

(6) Then west following the Chowchilla River to the point where the Madera County-Merced County boundary diverges from the river;

(7) Then southwest following the Madera County-Merced County boundary to the San Joaquin River;

(8) Then following the San Joaquin River south and east returning to the point of beginning.

[T.D. ATF–192, 49 FR 47833, Dec. 12, 1984; 50 FR 2782, Jan. 22, 1985, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987]

## §9.93 Mendocino.

(a) *Name.* The name of the viticultural area described in this section is ''Mendocino.''

(b) *Approved maps.* The appropriate maps for determining the boundaries for the Mendocino viticultural area are seven U.S.G.S. maps. They are titled:

(1) ''Willits Quadrangle, California—Mendocino Co.,'' 15 minute series (1961);

(2) ''Potter Valley Quadrangle, California,'' 15 minute series (1960);

(3) ''Ukiah Quadrangle, California,'' 15 minute series (1958);

(4) ''Hopland Quadrangle, California,'' 15 minute series (1960);

(5) ''Boonville Quadrangle, California—Mendocino Co.,'' 15 minute series (1959);

(6) ''Navarro Quadrangle, California—Mendocino Co.,'' 15 minute series (1961);

(7) ''Ornbaun Valley Quadrangle, California,'' 15 minute series (1960).

(c) *Boundaries.* The ''Mendocino'' viticultural area is located entirely within Mendocino County, California. The beginning point is the southeast corner of Section 30, Township 12 North (T. 12 N.), Range 10 West (R. 10 W.) located along the Mendocino County/Sonoma County line in the southeast quadrant of U.S.G.S. map ''Hopland Quadrangle.''

(1) From the beginning point, the boundary runs north along the eastern boundary of Sections 30, 19, 18, 7 and 6 to the point labeled Jakes Cr (Jakes Creek) located at the northwest corner of Section 5, T. 12 N., R. 10 W.;

(2) Thence in a straight line in a northwest direction to the point labeled Bedford Rock in Section 3, T. 13 N., R. 11 W.;

(3) Thence in a straight line in a northwest direction to a point labeled Red Mtn in Section 17, T. 14 N., R. 11 W.;

(4) Thence in a straight line in a northwest direction to the southeast corner of Section 25, T. 16 N., R. 11 W.;

(5) Thence in a straight line in a northeast direction to the northeast corner of Section 1, T. 16 N., R. 11 W. located along the Mendocino County/Lake County line;

(6) Thence in a straight line in a northwest direction to the northeast corner of Section 5, T. 17 N., R. 11 W.;

(7) Thence in a westerly direction along the T. 18 N./T. 17 N. township line until it intersects with the R. 13 W./R. 12 W. range line;

(8) Thence in a straight line in a southwest direction to the point labeled Eagle Rock located in Section 16, T. 15 N., R. 13 W.;

(9) Thence in a straight line in a southeast direction to the point labeled Bus McGall Peak located in Section 4, T. 13 N., R. 12 W.;

(10) Thence in a straight line in a westerly direction to an unnamed hilltop, elevation 2,015 feet, in the northeast corner of Section 9, T. 13 N., R. 13 W.;

(11) Thence in a straight line in a northwest direction to the junction of Baily Gulch and the South Branch, North Fork of the Navarro River, located in Section 8, T.15N., R.15W.;

(12) Thence in a straight line in a southwest direction to Benchmark (BM) 1057 located in Section 28, T. 15 N., R. 16 W.;

(13) Thence due south in a straight line approximately 1.4 miles to Greenwood Creek located in Section 33, T. 15 N., R. 16 W.;

(14) Thence following Greenwood Creek in a generally southeasterly and then a northeasterly direction to where it intersects with the south section line of Section 16, T. 14 N., R. 15 W., approximately .2 miles west of Cold Springs Road;

(15) Thence in an easterly direction along the south section lines of Sections 16, 15, and 14, T. 14 N., R. 15 W., to the intersection of the south section line of Section 14 with an unnamed creek;

(16) Thence in a straight line in a southeasterly direction to Benchmark (BM) 680 located in Section 30, T. 13 N., R. 13 W.;

(17) Thence continuing in a straight line in a southerly direction to the southwest corner of Section 5, T. 12 N., R. 13 W., and the Mendocino County/Sonoma County line;

(18) Thence continuing in a straight line in a southeasterly direction to the intersection of the southwest corner of Section 32, T. 12 N., R. 11 W., and the Mendocino County/Sonoma County line;

(19) Thence following the Mendocino County/Sonoma County line in an easterly, northerly, and then an easterly direction to the beginning point.

[T.D. ATF–178, 49 FR 24714, June 15, 1984, as amended by T.D. ATF–397, 63 FR 16904, Apr. 7, 1998]

### § 9.94 Howell Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Howell Mountain.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Howell Mountain viticultural area are four U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) ''Detert Reservoir, CA.,'' 1959 (photorevised 1980).

(2) ''Aetna Springs, CA.,'' 1958 (photorevised 1981).

(3) ''Calistoga, CA.,'' 1958 (photorevised 1980).

(4) ''St. Helena, CA.,'' 1960 (photorevised 1980).

(c) *Boundaries.* The Howell Mountain viticultural area is located in Napa County, California, and is part of the Napa Valley viticultural area. The exact boundaries of the viticultural area, based on landmarks and points of reference found in the approved maps, as follows:

(1) Beginning at the 1,400 foot contour line at the intersection of Sections 15 and 16 in R6W/T9N of the Detert Reservoir Quadrangle U.S.G.S. map.

(2) Then continuing in an east and southeast direction along the 1,400 foot contour line to the southeast corner of Section 23 in R5W/T8N.

(3) Then in a generally northwest direction along the 1,400 foot contour line until it intersects the line between Sections 21 and 22 in R6W/T9N.

(4) Then north along the Section 21/22 boundary line to the starting point at the 1,400 foot contour line.

[T.D. ATF–163, 48 FR 57487, Dec. 30, 1983, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987]

### § 9.95 Clarksburg.

(a) *Name.* The name of the viticultural area described in this section is ''Clarksburg.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of

the Clarksburg viticultural area are eight U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Sacramento West, Calif., 1967 (photorevised 1980).

(2) Saxon, Calif., 1952 (photorevised 1968).

(3) Clarksburg, Calif., 1967 (photorevised 1980).

(4) Florin, Calif., 1968 (photorevised 1980).

(5) Liberty Island, Calif., 1978.

(6) Courtland, Calif., 1978.

(7) Bruceville, Calif., 1978 (photorevised 1980).

(8) Isleton, Calif., 1978.

(c) *Boundaries.* Beginning at a point (on the Sacramento West topographic map) in Yolo County in T8N/R4E, at the intersection of Jefferson Blvd. and Burrows Ave.,

(1) Then southwest in a straight line 1.2 miles along Jefferson Blvd. to the eastern bank of the Sacramento River Deep Water Ship Channel.

(2) Then southwest along the Sacramento River Deep Water Ship Channel, approximately 17 miles to T5N/R3E, to the Class 5 trail on the levee connecting the Sacramento River Deep Water Ship Channel and the dredger cut Miner Slough, approximately 2 miles from the Solano/Yolo County line.

(3) Then east along the trail to the Miner Slough.

(4) Then east along Miner Slough to the point where it joins Sutter Slough, then south along Sutter Slough around the tip of Sutter Island to the junction of Sutter Slough and Steamboat Slough; then north around Sutter Island along Steamboat Slough to Section 8 in T5N/R4E where Steamboat Slough joins the Sacramento River.

(5) The southeast following the Sacramento River to the point where the Sacramento River meets the Delta Cross Channel at the Southern Pacific Railroad in Section 35, T5N/R4E.

(6) Then northeast along the Southern Pacific Railroad for 2 miles, to a point ⅓ mile past the intersection of the Southern Pacific Railroad and the eastern branch of Snodgrass Slough.

(7) Then east approximately 2½ miles along the levee to Interstate 5 (under construction).

(8) Then north approximately 8½ miles along Interstate 5 (under construction, proposed, and completed) to Section 18 in T6N/R5E, at the intersection of Interstate 5 and Hood Franklin Road.

(9) Then southwest along Hood Franklin Road to the Southern Pacific Railroad Levee, .1 mile northeast of Hood Junction.

(10) Then north approximately 18 miles along the Southern Pacific Railroad Levee to Section 11 in T7N/R4E, at Freeport Blvd., and then across the Sacramento River at the line between Sections 11 and 14.

(11) Then northwest along the west bank of the Sacramento River to Burrows Ave.

(12) Then northwest along Burrows Ave. to the starting point at the intersection of Jefferson Blvd. and Burrows Ave.

[T.D. ATF–166, 49 FR 2759, Jan. 23, 1984]

### §9.96 Mississippi Delta.

(a) *Name.* The name of the viticultural area described in this section is ''Mississippi Delta.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Mississippi Delta viticultural area are three U.S.G.S. maps. They are titled:

(1) Helena, scale of 1:250,000, 1955 (revised 1977).

(2) Greenwood, scale of 1:250,000, 1953 (revised 1979).

(3) Jackson, scale of 1:250,000, 1955 (revised 1973).

(c) *Boundary*—(1) *General.* The Mississippi Delta viticultural area is located in Mississippi, Louisiana, and Tennessee. The starting point of the following boundary description is the intersection of the Illinois Central Gulf (I.C.G.) Railroad and the Mississippi River levee system, on the southeast side of Lake Horne, between Lake View, Mississippi, and Walls, Mississippi, on the Helena map.

(2) *Boundary Description.* (i) From the starting point generally southward along the Mississippi River levee system until it again intersects the I.C.G. Railroad, near Twin Lake, Mississippi (about 10 miles north of Vicksburg, on the Jackson map). In any place where there is more than one continuous

levee, the one closest to the Mississippi River is the boundary.

(ii) From the intersection described in paragraph (c)(2)(i), the boundary continues southward along the I.C.G. tracks, until they merge with another branch of the I.C.G. Railroad, near Redwood, Mississippi.

(iii) Then generally northeastward along that other branch of the I.C.G. Railroad, to the Leflore County-Holmes County line (on the Greenwood map).

(iv) Then southeastward along that county line to the Leflore County-Carroll County line.

(v) Then generally northward along that county line to Mississippi Route 7.

(vi) Then generally northeastward along Route 7 to the 90°00′ longitude line.

(vii) Then northward along that longitude line to Mississippi Route 8.

(viii) Then eastward along Route 8 to Mississippi Route 35.

(ix) Then northward along Route 35 to Mississippi Route 322 (on the Helena map).

(x) Then generally eastward along Route 322 to the Panola Quitman Floodway.

(xi) Then northward along that floodway to the range line R.9W./R.8W.

(xii) Then northward along that range line to the 200 ft. contour line (north of Ballentine, Mississippi).

(xiii) Then generally northeastward along that contour line to Mississippi Route 3.

(xiv) Then northward along Route 3 to the Tunica County-Tate County line.

(xv) Then northward along that county line to the Tunica County-De Soto County line.

(xvi) Then northward along that county line to the I.C.G. Railroad.

(xvii) Then northward along the I.C.G. tracks to the starting point.

[T.D. ATF–181, 49 FR 34354, Aug. 30, 1984]

## § 9.97 Sonoita.

(a) *Name.* The name of the viticultural area described in this section is ''Sonoita.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of Sonoita viticultural area are seven U.S.G.S. maps. They are titled:

(1) Benson Quadrangle, 15 minute series, 1958.

(2) Fort Huachuca Quadrangle, 15 minute series, 1958.

(3) Elgin Quadrangle, 15 minute series, 1958.

(4) Lochiel Quadrangle, 15 minute series, 1958.

(5) Mount Wrightson Quadrangle, 15 minute series, 1958.

(6) Sunnyside Quadrangle, 15 minute series, 1958.

(7) Empire Mountains Quadrangle, 15 minute series, 1958.

(c) *Bouldary*—(1) *General.* The Sonoita viticultural area is located in Arizona. The starting point of the following boundary description is the summit of Mount Wrightson (9,543 feet) in the Santa Rita Mountains.

(2) *Boundary Description*—(i) From the starting point southeastward in a straight line for approximately 24 miles, to the summit of Lookout Knob (6,171 feet) in the Canelo Hills.

(ii) From there in a straight line eastward for approximately 10 miles, to the summit of Huachuca Peak (8,410 feet) in the Huachuca Mountains.

(iii) From there north-northwestward for approximately 21 miles in a straight line to the summit of Granite Peak (7,413 feet) in the Whetstone Mountains.

(iv) From there west-southwestward in a straight line for approximately 26 miles, to the summit of Mount Wrightson (the point of beginning).

[T.D. ATF–189, 49 FR 43054, Oct. 26, 1984]

## § 9.98 Monterey.

(a) *Name.* The name of the viticultural area described in this section is ''Monterey.''

(b) *Approved maps.* The approved maps for determining the boundary of the Monterey viticultural area are 36 U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

(1) Sycamore Flat, CA, 1956, photoinspected 1972;

(2) Junipero Serra Peak, CA, 1949, photoinspected 1972;

(3) Reliz Canyon, CA, 1949;

(4) Paraiso Springs, CA, 1956;

(5) Thompson Canyon, CA, 1949, photo-revised 1979;

(6) Cosio Knob, CA, 1948, photoinspected 1976;

(7) Espinosa Canyon, CA, 1948;
(8) San Ardo, CA, 1967;
(9) Hames Valley, CA, 1949;
(10) Tierra Redonda Mtn., CA, 1948;
(11) Bradley, CA, 1949;
(12) Wunpost, CA, 1948;
(13) Pancho Rico Valley, CA, 1967;
(14) Nattras Valley, CA, 1967;
(15) San Lucas, CA, 1949;
(16) Pinalito Canyon, CA, 1969;
(17) North Chalone Peak, CA, 1969;
(18) Soledad, CA, 1955;
(19) Mount Johnson, CA, 1968;
(20) Gonzales, CA, 1955;
(21) Mt. Harlan Quadrangle, CA, 1968;
(22) Natividad Quadrangle, CA, 1947, photo-revised 1968, photoinspected 1974;
(23) San Juan Bautista Quadrangle, CA, 1955, photo-revised 1980;
(24) Prunedale Quadrangle, CA, 1954, photo-revised 1981;
(25) Watsonville East Quadrangle, CA, 1955, photo-revised 1980;
(26) Watsonville West Quadrangle, CA, 1954, photo-revised 1980;
(27) Moss Landing Quadrangle, CA, 1954, photo-revised 1980;
(28) Marina Quadrangle, CA, 1947, photo-revised 1968 and 1974;
(29) Monterey, CA, 1947, photo-revised 1968, photoinspected 1974;
(30) Mt. Carmel, CA, 1956, photoinspected 1972;
(31) Carmel Valley, CA, 1956, photoinspected 1974;
(32) Spreckels, CA, 1947, photo-revised 1968, photoinspected 1975;
(33) Chualar, CA, 1947, photo-revised 1968, photoinspected 1974;
(34) Rana Creek, CA, 1956, photoinspected 1973; and
(35) Palo Escrito Peak, CA, 1956;
(36) Greenfield, CA, 1956;
(37) Salinas, CA, 1947 (photorevised 1975); and
(38) Seaside, CA, 1947 (photorevised 1968, photoinspected 1974).

(c) *Boundary.* The Monterey viticultural area is located in Monterey County, California. The boundary is as follows:

(1) The beginning point is found on the ''Sycamore Flat'' U.S.G.S. 7.5 minute map at the junction of Arroyo Seco Road and the Jamesburg Road, in the southeast corner of section 21, T(ownship) 19 S., R(ange) 5 E. (This is also the beginning point for the Arroyo Seco viticultural area.)

(2) The boundary proceeds directly west along the southern boundary of section 21 to the southwest corner of section 21, T. 19 S., R. 5 E.

(3) Then southeast in a straight diagonal line across section 28 to the southeast corner of section 28, T. 19 S., R. 5 E.

(4) Then directly east along the southern boundaries of sections 27, 26 and 25 in T. 19 S., R. 5 E., sections 30, 29, 28, 27, 26 and 25 in T. 19 S., R. 6 E., and sections 30, 29, and 28 in T. 19 S., R. 7 E. to the southeast corner of section 28, T. 19 S., R. 7 E.

(5) Then south along the eastern boundary of section 33 to the southeast corner of section 33, T. 19 S., R. 7 E.

(6) Then southeast in a straight diagonal line across section 3 to the southeast corner of section 3, T. 20 S., R. 7 E.

(7) Then south southeast in a straight diagonal line across sections 11 and 14 to the southeast corner of section 14, T. 20 S., R. 7 E.

(8) Then south along the western boundaries of sections 24 and 25 to the southwest corner of section 25, T. 20 S., R. 7 E.

(9) Then east along the southern boundaries of sections 25 and 30 to the southeast corner of section 30, T. 20 S., R. 8 E.

(10) Then southwest in a straight diagonal line across section 31 to the southwest corner of section 31, T. 20 S., R. 8 E.

(11) Then west along the southern boundary of section 36, T. 20 S., R. 7 E., to the northwest corner of section 6, T. 21 S., R. 8 E.

(12) Then south along the western boundaries of sections 6 and 7 to the southwest corner of section 7, T. 21 S., R. 8 E.

(13) Then west along the northern boundary of section 13 to the northwest corner of section 13, T. 21 S., R. 7 E.

(14) Then south along the western boundaries of sections 13 and 24 to the southwest corner of section 24, T. 21 S., R. 7 E.

(15) Then east northeast in a straight diagonal line across section 24, T. 21 S., R. 7 E., and across section 19, T. 21 S., R. 8 E., to the northeast corner of section 19, T. 21 S., R. 8 E.

(16) Then northeast in a straight diagonal line across section 17 to the northeast corner of section 17, T. 21 S., R. 8 E.

(17) Then southeast in a straight diagonal line across sections 16, 22, 26 and 36 in T. 21 S., R. 8 E. and across sections 6, 8, and 16 in T. 22 S., R. 9 E. to the southeast corner of section 16, T. 22 S., R. 9 E.

(18) Then east southeast in a straight diagonal line across sections 22, 23, 24, T. 22 S., R. 9 E., and across section 19, T. 22 S., R. 10 E., to the southeast corner of section 19, T. 22 S., R. 10 E.

(19) Then south southeast in a straight diagonal line across sections 29, 32, and 33, T. 22 S., R. 10 E., to the southeast corner of section 4, T. 23 S., R. 10 E.

(20) Then south southeast in a straight diagonal line across sections 10, 15, 23, and 26 to the southeast corner of section 26, T. 23 S., R. 10 E.

(21) Then northwest in a straight diagonal line across section 26 to the northwest corner of section 26, T. 23 S., R. 10 E.

(22) Then west northwest in a straight diagonal line across sections 22, 21, 20, and 19, T. 23 S., R. 10 E. to the northwest corner of section 24, T. 23 S., R. 9 E.

(23) Then southeast across sections 24, 25, 30, 31, and 32, to the southeast corner of section 5, T. 24 S., R. 10 E.

(24) Then east southeast in a straight diagonal line across section 9 to the southeast corner of section 10, T. 24 S., R. 10 E.

(25) Then south southeast in a straight diagonal line across section 14 to the southeast corner of section 23, T. 24 S., R. 10 E.

(26) Then southwest in a straight diagonal line to the southwest corner of section 26, T. 24 S., R. 10 E.

(27) Then south along the western boundary of section 35 to the southwest corner of section 35, T. 24 S., R. 10 E.

(28) Then east along the southern boundaries of sections 35 and 36 to the southeast corner of section 36, T. 24 S., R. 10 E.

(29) Then north along the eastern boundaries of sections 36 and 25 to the northeast corner of section 25, T. 24 S., R. 10 E.

(30) Then northeast in a straight diagonal line across sections 19, 18, and 17 to the northeast corner of section 8, T. 24 S., R. 11 E.

(31) Then west northwest in a straight diagonal line across section 5 to the northwest corner of section 6, T. 24 S., R. 11 E.

(32) Then north along the line separating Range 10 E. and Range 11 E. along the eastern boundary lines of sections 36, 25, 24, 13, 12 and 1 in Township 23 S., and along the western boundaries of sections 36, 25, 24, 13, 12 and 1 in Township 22 S., to the northeast corner of section 36, T. 21 S., R. 10 E.

(33) Then west northwest in a straight diagonal line across sections 25, 26, 23, 22, 15, 16 and 9 to the northwest corner of section 8, T. 21 S., R. 10 E.

(34) Then northwest in a straight diagonal line to the northwest corner of section 6, T. 21 S., R. 10 E.

(35) Then west along the northern boundary of section 1, T. 21 S., R. 9 E. to the southeast corner of section 36, T. 20 S., R. 9 E.

(36) Then northwest in a straight diagonal line across sections 36, 26, 22, 16, 8, and 6 in T. 20 S., R. 9 E. to the northwest corner of section 6, T. 20 S., R. 9 E.

(37) Then north along the line separating Range 8 E. and Range 9 E. along the western boundaries of sections 36, 25, 24, 13, 12, and 1, T. 19S., R. 8 E. to the northeast corner of section 1, T. 19 S., R. 9 E.

(38) Then northwest in a straight diagonal line to the point of intersection of the boundary line separating R. 7 E. and R. 8 E. and the boundary line separating T. 17 S. and T. 18 S.

(39) Then west along the northern boundaries of sections 1 and 2 to the northwest corner of section 2, T. 18 S., R. 7 E.

(40) Then northwest in a straight diagonal line across section 34 to the northwest corner of section 34, T. 17 S., R. 7 E.

(41) Then west along the southern boundaries of sections 28 and 29 to the southwest corner of section 29, T. 17 S., R. 7 E.

(42) Then northwest in a straight diagonal line across sections 30, 24, 14, 10

and 4 to the northwest corner of section 4, T. 17 S., R. 6 E.

(43) Then north northeast in a straight line across the easternmost portion of section 32 to the northeast corner of section 32, T. 16 S., R. 6 E.

(44) Then north along the eastern boundary of section 29 to the northeast corner of section 29, T. 16 S., R. 6 E.

(45) Then northwest in a straight diagonal line across section 20 to the northwest corner of section 20, T. 16 S., R. 6 E.

(46) Then west northwest in a straight diagonal line across sections 18 and 13 to the northwest corner of section 13, T. 16 S., R. 5 E.

(47) Then north northwest in a straight diagonal line across sections 11 and 2 to the northwest corner of section 2, T. 16 S., R. 5 E.

(48) Then west along the southern boundaries of section 34 and 33 to the southwest corner of section 33, T. 15 S., R. 5 E.

(49) Then north along the western boundary of section 33, T. 15 S., R. 5 E., in a straight line for approximately 0.5 mile to the intersection with the Chualar Land Grant boundary at the northwestern corner of section 33, T. 15 S., R. 5 E.

(50) Then northeast in a straight diagonal line across the Chualar Land Grant and section 27 to the northeast corner of section 27, T. 15 S., R. 5 E.

(51) Then northwest in a straight diagonal line across section 22 to the northwest corner of section 22, T. 15 S., R. 5 E.

(52) Then west in a straight line along the southern boundaries of sections 16 and 17, T. 15 S., R. 5 E., to the southwest corner of section 17 where it intersects with the Encinal Y Buena Esperanza Land Grant boundary.

(53) Then north and then west along the eastern boundary of the Encinal Y Buena Esperanza Land Grant and the western boundaries of sections 21, 17, 8, and 7, T. 15 S., R. 5 E.

(54) Then in a straight line from the northwest corner of the Encinal Y Buena Esperanza Land Grant boundary and section 7, T. 15 S., R. 5 E. in a west northwest direction to the point where the power transmission line (with located metal tower) intersects at the western boundary of the Cienega del Gabilan Land Grant and the eastern boundary of the El Alisal Land Grant, T. 14 S., R. 4 E.

(55) Then north and then northwest along the boundary line between the Cienega del Gabilan Land Grant and El Alisal Land Grant to the westernmost corner of the Cienega del Gabilan Land Grant, T. 14 S., R. 4 E.

(56) Then west along the boundary line between the Sausal Land Grant and La Natividad Land Grant to the point where the boundary line intersects Old Stage Road.

(57) Then north along Old Stage Road to the point where Old Stage Road intersects the Monterey County—San Benito County line, T. 13 S., R. 4 E.

(58) Then northwest along the Monterey County—San Benito County line to the point near the Town of Aromas where the boundary lines of the counties of Monterey, Santa Cruz, and San Benito meet, T. 12 S., R. 3 E.

(59) Then in a meandering line along the Monterey County—Santa Cruz County line east then southeast to the Pacific Ocean, T. 12 S., R. 1 E.

(60) Then south along the coastline of Monterey Bay to its intersection with the northwesternmost boundary of Fort Ord Military Reservation, T. 14 S., R. 1 E.

(61) Then following the boundry line of the Fort Ord Military Reservation in an irregular line generally east, then south, then west to the point where the boundary line of the military reservation meets the Pacific Ocean, T. 15 S., R. 1 E.

(62) Then following the coastline of the Monterey Peninsula south along the coastline of Carmel Bay to Carmel Point, the northwesternmost point of Point Lobos State Reserve on the Carmel Peninsula.

(63) Then southeast in a straight diagonal line to the southwestern corner of section 25, T. 16 S., R. 1 W.

(64) Then east along the southern boundaries of section 25, T. 16 S., R. 1 W., and sections 30 and 29, T. 16 S., R. 1 E., to the southeastern corner of section 29 where it intersects with the southwestern boundary of the El Potrero de San Carlos Land Grant.

(65) Then southeast along the southwestern boundary line of the El Potrero de San Carlos Land Grant to

the southeastern corner of section 33, T. 16 S., R. 1 E.

(66) Then east along the line separating Township 16 S. and Township 17 S. and across Pinyon Peak to the southeast corner of section 32, T. 16 S., R. 2 E. (This is the beginning and ending point of the boundary of Carmel Valley viticultural area.)

(67) Then continuing east along the line separating Township 16 S. from Township 17 S. to its point of intersection with the line separating Range 2 E. and Range 3 E.

(68) Then north along the western boundaries of sections 31, 30, 19, 18, 7 and 6 in T. 16 S., R. 3 E. to the southwestern corner of section 31, T. 15 S., R. 3 E.

(69) Then in a straight diagonal line east northeast across sections 31, 32 and 33, T. 15 S., R. 3 E. to the southeast corner of section 28, T. 15 S., R. 3 E.

(70) Then southeast in a straight diagonal line along the eastern boundaries of sections 33 and 34, T. 15 S., R. 3 E., and sections 3, 2, 12, 16, 20, 21, and 28, T. 16 S., R. 4 E., to the point where the eastern boundary line of section 28 intersects the boundary line of the Guadalupe Y Llanitos de Los Correos Land Grant.

(71) Then south to the southwest corner of section 34, T. 16 S., R. 4 E.

(72) Then east to the northwest corner of section 2, T. 17 S., R. 4 E.

(73) Then south along the eastern boundary of section 3 to the southeast corner of section 3, T. 17 S., R. 4 E.

(74) Then southeast in a straight diagonal line across sections 11, 13, 19, and 29, to the southeast corner of section 29, T. 17 S., R. 5 E.

(75) Then south along the western boundary of section 33 to the southwest corner of section 33, T. 17 S., R. 5 E.

(76) Then east along the southern boundary of section 33 to the northeast corner of section 4, T. 18 S., R. 5 E.

(77) Then southeast in a diagonal line acros sections 3 and 11 to the southeast corner of section 11, T. 18 S., R. 5 E.

(78) Then south along the western boundary of section 13 to the southwest corner of section 13, T. 18 S., R. 5 E.

(79) Then southeast in a diagonal line across section 24 to the southeast corner of section 24, T. 18 S., R. 5 E.

(80) Then south along the western boundaries of section 30 and 31 to the southwest corner of section 31, T. 18 S., R. 6 E.

(81) Then east along the southern boundaries of sections 31 and 32 to the southeast corner of section 32, T. 18 S., R. 6 E. (From this point, the Monterey and Arroyo Seco viticultural areas share the same boundary lines.)

(82) Then south along the eastern boundaries of sections 5, 8, and 17 to Arroyo Seco Road, T. 19 S., R. 6 E.

(83) Then southwest in a straight line for approximately 1.0 mile to Benchmark 673, T. 19 S., R. 6 E.

(84) Then west in a straight line for approximately 1.8 miles to Bench Mark 649.

(85) Then northwest in a straight line for approximately 0.2 mile to the northeast corner of section 23, T. 19 S., R. 5 E.

(86) Then west following the northern boundaries of sections 23 and 22 to the northwest corner of section 22, T. 19 S., R. 5 E.

(87) Then south in a straight line along the western boundary of section 22 to the point of beginning.

[T.D. ATF–178, 49 FR 24718, June 15, 1984, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987]

### § 9.99 Clear Lake.

(a) *Name.* The name of the viticultural area described in this section is ''Clear Lake.''

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Clear Lake viticultural area are four U.S.G.S. maps. The maps are titled as follows:

(1) ''Lower Lake Quadrangle, California,'' 15 minute series, 1958;

(2) ''Clearlake Oaks Quadrangle, California,'' 15 minute series, 1960;

(3) ''Lakeport Quadrangle, California,'' 15 minute series, 1958;

(4) ''Kelseyville Quadrangle, California,'' 15 minute series, 1959.

(c) *Boundaries.* The Clear Lake viticultural area is located in southwestern Lake County, California. The descriptive boundaries of the viticultural area, using landmarks and points of reference on the applicable U.S.G.S. maps, are as follows:

*Lower Lake Quadrangle Map* (15 minute series); From the beginning point on Mt. Hannah in Section 16, Township 12 North (T12N), Range 8 West (R8W), identified as having an elevation of 3,978 feet, the boundary runs—

(1) East-southeasterly in a straight line to the point on Seigler Mountain in Section 23, T12N/R8W, identified as having an elevation of 3,692 feet;

(2) Then east-southeasterly in a straight line to the point on Childers Peak in Section 34, T12N/R7W, identified as having an elevation of 2,188 feet;

(3) Then east-northeasterly in a straight line to the point on the southeast corner of Section 25, T12N/R7W;

(4) Then northeasterly in a straight line to the point in Section 16, T12N/R6W, identified as being the ''Baker Mine;''

(5) Then northwesterly in a straight line to the point at the southeast corner of Section 23, T13N/R7W;

(6) Then northerly along the east line of Sections 23, 14, 11, and 2, to the point at the northeast corner of Section 2, T13N/R7W, on the Clearlake Oaks Quadrangle map;

*Clearlake Oaks Quadrangle Map* (15 minute series); Continuing from the northeast corner of Section 2, T13N/R7W—

(7) Then northwesterly in a straight line to the point in Section 21, T14N/R7W, at the top of Round Mountain

(8) Then northwesterly in a straight line to the southeast corner of Section 4, T14N/R8W;

*Lakeport Quadrangle Map* (15 minute series); Continuing from the southeast corner of Section 4, T14N/R8W, on the Clearlake Oaks Quadrangle Map—

(9) Then northwesterly on the Lakeport Quadrangle in a straight line to a point on Charlie Alley Peak in Section 28, T16N/R9W, identified as having an elevation of 3,482 feet;

(10) Then westerly in a straight line to a point on Hells Peak in Section 29, T16N/R10W, identified as having an elevation of 2,325 feet;

(11) The southeasterly in a straight line to a point on Griner Peak in Section 23, T15N/R10W, identified as having an elevation of 2,132 feet;

(12) Then southwesterly in a straight line to a point on Scotts Mountain in Section 8, T14N/R10W, identified as having an elevation of 2,380 feet;

(13) Then southeasterly in a straight line to a point on Lakeport Peak in Section 35, T14N/R10W, identified as having an elevation of 2,180 feet;

*Kelseyville Quadrangle Map* (15 minute series); Continuing from Lakeport Peak in Section 35, T14N/R10W, on the Lakeport Quadrangle Map—

(14) Then southeasterly in a straight line to the point at the southwest corner of Section 1, T13N/R10W;

(15) Then south by southeast in a straight line to the point at the southeast corner of Section 36, T13N/R10W;

(16) Then south by southeasterly in a straight line to the point at the southwest corner of Section 18, T12N/R8W;

(17) Then east by northeast in a straight line to the beginning point at Mount Hannah, Section 16, T12N/R8W, on the Lower Lake Quadrangle Map.

[T.D. ATF–174, 49 FR 19468, May 8, 1984]

## §9.100 Mesilla Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Mesilla Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of Mesilla Valley viticultural area are 15 U.S.G.S. quadrangle 7.5 minute series maps. They are entitled:

(1) ''Anthony, N. Mex.-Tex.,'' 7.5 minute series, edition of 1955;

(2) ''Bishop Cap, N. Mex.,'' 7.5 minute series, edition of 1955;

(3) ''Black Mesa, N. Mex.,'' 7.5 minute series, edition of 1978;

(4) ''Canutillo, Tex.-N. Mex.,'' 7.5 minute series, edition of 1955 (photorevised 1967);

(5) ''Dona Ana, N. Mex.,'' 7.5 minute series, edition of 1978;

(6) ''La Mesa, N. Mex.,'' 7.5 minute series, edition of 1955;

(7) ''La Union, N. Mex.-Tex.'' 7.5 minute series, edition of 1955;

(8) ''Las Cruces, N. Mex.,'' 7.5 minute series, edition of 1978;

(9) ''Leasburg, N. Mex.,'' 7.5 minute series, edition of 1978;

(10) ''Little Black Mountain, N. Mex.,'' 7.5 minute series, edition of 1978;

(11) ''Picacho Mountain, N. Mex.,'' 7.5 minute series, edition of 1978;

(12) ''San Miguel, N. Mex.,'' 7.5 minute series, edition of 1955;

(13) ''Smeltertown, Tex.-N. Mex.,'' 7.5 minute series, edition of 1955 (photorevised 1967 and 1973);

(14) ''Strauss, N. Mex.-Tex.,'' 7.5 minute series, edition of 1955; and

(15) ''Tortugas Mountain, N. Mex.,'' 7.5 minute series, edition of 1955.

(c) *Boundaries.* The Mesilla Valley viticultural area is located within Dona Ana County, New Mexico, and El Paso County, Texas. The boundaries are as follows: The beginning point is at the Faulkner Canyon on the

''Leasburg, N. Mex.'' U.S.G.S. map at the northwest corner of Section 15, Township 21 South (T21S), Range 1 West (R1W).

(1) From the beginning point, the boundary runs east 3.7 miles along the north section line until it converges with the 4,200 foot elevation contour line at Section 18, T21S/R1E;

(2) Then it runs southeasterly 31 miles along the 4,200 foot elevation contour line to a point approximately 3.5 miles south of Bishop Cap where it intersects the Fort Bliss Military Reservation boundary at the northeast portion of Section 13, T25S/R3E on the ''Bishop Cap, N. Mex.'' U.S.G.S. map;

(3) Then it follows the Fort Bliss Military Reservation boundary south for approximately 3.7 miles and east approximately .8 mile to the intersection with the 4,200 foot elevation contour line at the southeast portion of Section 6, T26S/R4E on the ''Anthony, N. Mex.-Tex.'' U.S.G.S. map;

(4) Then it runs south along the 4,200 foot elevation contour line for approximately 20 miles until it intersects the La Mesa Road (Mesa Avenue) in the city limits of El Paso, Texas, on the ''Smeltertown, Tex.-N. Mex.'' U.S.G.S. map;

(5) Then it heads south on the La Mesa Road (Mesa Avenue) for 1.2 miles until it meets Executive Center Boulevard that goes to La Guna/Smeltertown;

(6) Then it travels in a southwesterly direction for 1.1 miles on Executive Center Boulevard to La Guna/Smeltertown until it crosses the Southern Pacific Railroad tracks at Smeltertown, Texas;

(7) Then it proceeds back into New Mexico northwesterly along the Southern Pacific Railroad tracks approximately 12.5 miles to a point near the switch yards at Strauss, New Mexico, where it intersects the 4,100 foot elevation contour line at the center of Section 24, T28S/R2E on the ''Strauss, N. Mex.-Tex.'' U.S.G.S. map;

(8) Then it follows the 4,100 foot elevation contour line in a northwesterly direction for 17 miles until it intersects with the south section line of Section 29, T25S/R2E, on the ''Little Black Mountain, N. Mex.'' U.S.G.S. map;

(9) Then it runs westerly approximately .5 mile along the south section line until it meets the 4,150 foot elevation contour line at Section 29, T25S/R2E;

(10) Then it follows the 4,150 foot elevation contour line northward for 15 miles until it meets with Interstate Highway 70/80/180 at the southeast corner of Section 19, T23S/R1E, on the ''Las Cruces, N. Mex.'' U.S.G.S. map;

(11) Then it runs southwest along Interstate Highway 70/80/180 for approximately .9 mile until it reaches the 4,200 foot elevation contour line at the northwest corner of Section 30, T23S/R1E, on the ''Picacho Mt., N. Mex.'' U.S.G.S. map;

(12) Then it meanders in a northerly direction on the 4,200 foot elevation contour line for 15 miles until it reaches the section line at the southwest corner of Section 15, T21S/R1W on the ''Leasburg, N. Mex.'' U.S.G.S. map;

(13) Then finally it goes north along the section line to Faulkner Canyon until it meets with the northwest corner of Section 15, T21S/R1W, which is the beginning point.

[T.D. ATF–197, 50 FR 6163, Feb. 14, 1985]

### § 9.101 The Hamptons, Long Island.

(a) *Name.* The name of the viticultural area described in this section is ''The Hamptons, Long Island.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of ''The Hamptons, Long Island'' viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) ''Riverhead, N.Y.,'' 7.5 minute series, scaled at 1:24,000, edition of 1956;

(2) ''Eastport, N.Y.,'' 7.5 minute series, scaled at 1:24,000, edition of 1956;

(3) ''New York, N.Y.; N.J.; Conn., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979;

(4) ''Providence, R.I.; Mass.; Conn.; N.Y., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969, and

(5) ''Hartford, Conn.; N.Y.; N.J.; Mass., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975.

(c) *Boundaries.* The boundaries of the viticultural area are as follows: ''The Hamptons, Long Island'' viticultural area is located entirely within eastern Suffolk County, Long Island, New

York. The viticultural area boundaries consist of all of the land areas of the South Fork of Long Island, New York, including all of the beaches, shorelines, islands and mainland areas in the Townships of Southampton and East Hampton (including Gardiners Island). The beginning point is found on the ''Riverhead, N.Y.'' U.S.G.S. map on the Peconic River about 2 miles east of Calverton where the Townships of Riverhead, Brookhaven and Southampton meet:

(1) The boundary travels south approximately 10 miles along the Southampton/Brookhaven Township line until it reaches the dunes on the Atlantic Ocean near Cupsogue Beach on the ''Eastport, N.Y.'' U.S.G.S. map.

(2) Then the boundary proceeds east and west along the beaches, shorelines, islands and mainland areas of the entire South Fork of Long Island described on the ''New York,'' ''Providence,'' and ''Hartford'' U.S.G.S. maps until it reaches the Peconic River near Calverton at the beginning point. These boundaries consist of all of the land found in the Townships of Southampton and East Hampton (including Gardiners Island).

[T.D. ATF–205, 50 FR 20413, May 16, 1985, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

### §9.102 Sonoma Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Sonoma Mountain.''

(b) *Approved maps.* The approved maps for determining the boundary of the Sonoma Mountain viticultural area are 2 U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Glen Ellen, Calif., dated 1954, photorevised 1980; and

(2) Kenwood, Calif., dated 1954, photorevised 1980.

(c) *Boundary.* The Sonoma Mountain viticultural area is located in Sonoma County, California. The boundary is as follows:

(1) The beginning point is the northern most point at which the 1600-foot contour line crosses the section line dividing section 22 from section 23, in Township 6 North, Range 7 West.

(2) The boundary follows this section line north to the 800-foot contour line.

(3) The boundary follows the 800-foot contour line westerly, easterly, and northerly to Bennett Valley Road.

(4) The boundary follows Bennett Valley Road easterly to Enterprise Road.

(5) The boundary follows Enterprise Road southeasterly to an unnamed stream, in Section 7, Township 6 North, Range 7 West, which crosses Enterprise Road near the point at which the road turns from an easterly to a southerly direction.

(6) The boundary follows this stream easterly to the 400-foot contour line.

(7) The boundary follows the 400-foot contour line southerly to the township line dividing Township 6 North from Township 5 North.

(8) The boundary follows a straight line extension of this township line west to the 1200-foot contour line.

(9) The boundary follows the 1200-foot contour line northwesterly to the range line dividing Range 6 West from Range 7 West.

(10) The boundary follows this range line south to the 1600-foot contour line.

(11) The boundary follows this contour line westerly to the beginning point.

[T.D. ATF–196, 50 FR 2979, Jan. 23, 1985, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987]

### §9.103 Mimbres Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Mimbres Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Mimbres Valley viticultural area are 28 U.S.G.S. quadrangle maps (26–7.5 minute series and 2–15 minute series). They are entitled:

(1) ''Akela, N. Mex.,'' 7.5 minute series, edition of 1972;

(2) ''Antelope Hill, N. Mex.,'' 7.5 minute series, edition of 1963 (photoinspected 1974);

(3) ''Bisbee Hills, N. Mex.,'' 7.5 minute series, edition of 1965;

(4) ''Bowlin Ranch, N. Mex.,'' 7.5 minute series, edition of 1965;

(5) ''Capital Dome, N. Mex.,'' 7.5 minute series, edition of 1965;

(6) ''Carne, N. Mex.,'' 7.5 minute series, edition of 1965;

(7) ''Columbus, N. Mex.,'' 7.5 minute series, edition of 1965;

(8) ''Columbus NE, N. Mex.,'' 7.5 minute series, edition of 1966;

(9) ''Columbus SE, N. Mex.,'' 7.5 minute series, edition of 1966;

(10) ''Deming East, N. Mex.,'' 7.5 minute series, edition of 1965;

(11) ''Deming West, N. Mex.,'' 7.5 minute series, edition of 1964 (photoinspected 1972);

(12) ''Dwyer, N. Mex.,'' 15 minute series, edition of 1956;

(13) ''Faywood Station, N. Mex.,'' 7.5 minute series, edition of 1947;

(14) ''Florida Gap, N. Mex.,'' 7.5 mintue series, edition of 1964;

(15) ''Goat Ridge, N. Mex.,'' 7.5 minute series, edition of 1964;

(16) ''Gym Peak, N. Mex.,'' 7.5 minute series, edition of 1964;

(17) ''Hermanas, N. Mex.,'' 7.5 minute series, edition of 1964;

(18) ''Malpais Hill, N. Mex.,'' 7.5 minute series, edition of 1965;

(19) ''Midway Butte, N. Mex.,'' 7.5 minute series, edition of 1965;

(20) ''Myndus, N. Mex.,'' 7.5 minute series, edition of 1972;

(21) ''North Peak, N. Mex.,'' 7.5 minute series, edition of 1965;

(22) ''Red Mountain, N. Mex.,'' 7.5 minute series, edition of 1965;

(23) ''San Lorenzo, N. Mex.,'' 15 minute series, edition of 1956;

(24) ''Sibley Hole, N. Mex.,'' 7.5 minute series, edition of 1972;

(25) ''South Peak, N. Mex.,'' 7.5 minute series, edition of 1965;

(26) ''Spalding, N. Mex.,'' 7.5 minute series, edition of 1964;

(27) ''West Lime Hills, N. Mex.,'' 7.5 minute series, edition of 1965; and

(28) ''Williams Ranch, N. Mex.,'' 7.5 minute series, edition of 1964.

(c) *Boundaries.* The Mimbres Valley viticultural area is located within Grant and Luna Counties, New Mexico. The boundaries are as follows: The beginning point is located at Faywood Station on an unimproved dirt road at benchmark 4911 in Luna County, New Mexico on the northern part of Section 2, Township 21 South (T21S), Range 12 West (R12W) on the Faywood Station Quadrangle U.S.G.S. map;

(1) From the beginning point the boundary runs northeast 2.25 miles along an unimproved dirt road until it intersects U.S. Routh 180 (indicated on map as U.S. Rte. 260) at New Mexico Highway 61 (indicated on map as an unnumbered secondary highway) at the south portion of Sec. 30, T20S/R11W;

(2) The boundary proceeds in a generally northerly direction on N.M. Hwy. 61 for 34.5 miles crossing over U.S. Rte. 90 (indicated on map as U.S. Rte. 180) west of San Lorenzo, N.M. until it meets an unimproved dirt road near Bear Canyon Dam at the west line of Sec. 28, T16S/R11W on the San Lorenzo, N. Mex. U.S.G.S. map;

(3) It then heads east on the unimproved dirt road for .2 mile until it meets the Mimbres River at Sec. 28, T16S/R11W;

(4) It then goes south on the Mimbres River for .25 mile until it intersects the 6,000 foot elevation contour line at Sec. 28, T16S/R11W;

(5) From there the boundary runs south along the 6,000 foot elevation contour line until it meets the east line of Sec. 11, T17S/R11W;

(6) Then it proceeds south on the section line for .6 mile until it hits the south line of Sec. 12, T17S/R11W;

(7) Then it travels east on the section line for 1.8 miles until it intersects an unimproved dirt road in Noonday Canyon on the north line of Sec. 18, T17S/R10W;

(8) It then heads south on the unimproved dirt road for 2.2 miles until it intersects a medium duty road at the northern part of Sec. 30, T17S/R10W;

(9) The boundary goes south on the medium duty road for .8 mile until it reaches the north line of Sec. 31, T17S/R10W;

(10) The boundary goes east 5 miles on the section line to the east line of Sec. 36, T17S/R10W;

(11) The boundary proceeds south on the section line for 13 miles to the south line of Sec. 36 (also indicated on map as Luna/Grant Country line), T19S/R10W on the Dwyer, N. Mex. U.S.G.S. map;

(12) The boundary travels west on the Luna/Grant County line for three miles to the east line of Sec. 4, T20S/R10W;

(13) The boundary goes south on the section line for three miles to the south line of Sec. 16, T20S/R10W;

(14) Then it goes west on the section line for approximately .6 mile to a

light duty road located 500 feet south of Benchmark 5119 on the south line of Sec. 16, T20S/R10W;

(15) The boundary heads south on the light duty road for approximately 10.25 miles until it meets Hwy. 180 at Benchmark 4672 near the west line of Sec. 9, T22S/R10W on the Spalding, N. Mex. U.S.G.S. map;

(16) Then it proceeds southeasterly on Hwy. 180 for approximately 5 miles to the north line of Sec. 6, T23S/R9W on the Deming West, N. Mex. U.S.G.S. map;

(17) It then goes east on the section line approximately 11.75 miles to the east line of Sec. 1, T23S/R8W on the Carne, N. Mex. U.S.G.S. map;

(18) It then travels south on the section line for 1.5 miles until it meets an unimproved dirt road at Sec. 12, T23S/R8W;

(19) It follows the unimproved dirt road in an easterly direction for 3 miles to Carne Windmill at the northeast part of Sec. 17, T23S/R7W;

(20) From there it follows an unimproved dirt road in a southeasterly direction for .75 mile until it meets the south line of Sec. 16, T23S/R7W;

(21) Then it proceeds east along the section line for 9 miles until it arrives at the east line of Sec. 24, T23S/R6W on the Myndus, N. Mex. U.S.G.S. map;

(22) Then it goes south on the section line for 15 miles until it meets the south line of Sec. 36, T25S/R6W on the Sibley Hole, N. Mex. U.S.G.S. map;

(23) Then it heads west on the section line for 8 miles until it intersects the 4,200 foot elevation contour line at the southeast corner of Sec. 34, T25S/R7W on the Gym Peak, N. Mex. U.S.G.S. map;

(24) Then it heads north on the 4,200 foot elevation contour line for 11 miles until it meets N.M. Hwy. 549 (indicated on map as U.S. Rte. 70/80/180) at the southwest corner of Sec. 5, T24S/R7W on the Florida Gap, N. Mex. U.S.G.S. map;

(25) The boundary heads west on M.M. Hwy. 549 (indicated on map as U.S. Rte. 70/80/180) for 4.5 miles until it meets the light duty road at the east line of Sec. 3, T24S/R8W on the Capital Dome, N. Mex. U.S.G.S. map;

(26) It then goes south on the light duty road/section line for 4 miles until it meets another light duty road at the south line of Sec. 22, T24S/R8W;

(27) Then the boundary heads west for 2 miles on the light duty road/section line until it intersects an unimproved dirt road at the east line of Sec. 29, T24S/R8W;

(28) Then it travels south on the unimproved dirt road/section line for 2 miles until it meets another unimproved dirt road at the south line of Sec. 32, T24S/R8W;

(29) It then moves west .25 mile on the unimproved dirt road until it reaches the east line of Sec. 5, T25S/R8W;

(30) Then it goes south on the section line for 6 miles until it reaches an unimproved dirt road near Crawford Ranch at the north line of Sec. 5, T25S/R8W on the South Peak, N. Mex. U.S.G.S. map;

(31) Then it follows the unimproved dirt road in a southwest then southern direction for approximately 3 miles until it hits the north line of Sec. 19, T26S/R8W;

(32) It then travels east for 1.1 mile along the section line until it hits the east line of Sec. 20, T26S/R8W;

(33) From there it proceeds south for 2 miles on the section line until it intersects the north line of Sec. 33, T26S/R8W;

(34) It then heads east for 5 miles on the section line until it intersects the east line of Sec. 31, T26S/R7W on the Gym Peak, N. Mex. U.S.G.S. map;

(35) The boundary goes south on the section line for 7 miles until it meets the north line of Sec. 5 (which also is a light duty road), T28S/R7W on the Columbus NE, N. Mex. U.S.G.S. map;

(36) Then it goes east for 4 miles on the section line until it meets the east line of Sec. 2 near Oney Tank T28S/R7W;

(37) Then it goes south on the section line for 8.7 miles until it meets the New Mexico, U.S.A./Mexico International border at the east line of Sec. 17, T29S/R7W on the Columbus SE, N. Mex. U.S.G.S. map;

(38) The boundary follows in a westerly direction along the International border for 23 miles to the west line of Sec. 18, T29S/R10W on the Hermanas, N. Mex. U.S.G.S. map;

(39) It then heads north on the western section for 3.5 miles to the north line of Sec. 31, T28S/R10W;

(40) It then moves east for 13 miles on the section line until it intersects the east line of Sec. 32, T28S/R8W on the Columbus, N. Mex. U.S.G.S. map;

(41) Then it follows the section line north for 8 miles until it meets the south line of Sec. 18, T27S/R8W on the North Peak, N. Mex. U.S.G.S. map;

(42) Then it proceeds west on the section line for 11 miles to the west part of Sec. 16 identified as longitude point 107 degrees, 52 minutes, 30 seconds, T27S/R10W on the West Lime Hills, N. Mex. U.S.G.S. map;

(43) Then it moves north on the 107 degrees, 52 minutes, 30 seconds longitude point for 9 miles until it intersects the north line of Sec. 4, T26S/R10W on the Midway Butte, N. Mex. U.S.G.S. map;

(44) Then it goes west on the section line for 6.5 miles until it meets the west line of Sec. 33, T25S/R11W on the Bisbee Hills, N. Mex. U.S.G.S. map;

(45) The boundary then travels north on the section line for 26.5 miles (crossing the Southern Pacific Railroad tracks) until it intersects with the Atchison, Topeka and Santa Fe Railroad tracks on the west line of Sec. 21, T21S/R11W on the Spalding, N. Mex. U.S.G.S. map;

(46) Finally it follows the Atchison, Topeka and Santa Fe Railroad tracks in a northwesterly direction for 5 miles until it reaches the beginning point at benchmark 4911 on an unimproved dirt road in Faywood Station at Sec. 2, T21S/R12W on the Faywood Station, N. Mex. U.S.G.S. map.

[T.D. ATF–217, 50 FR 48081, Nov. 21, 1985]

### § 9.104 South Coast.

(a) *Name.* The name of the viticultural area described in this section is ''South Coast.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of South Coast viticultural area are four U.S.G.S. maps. They are titled:

(1) San Diego, 1:250,000 series, 1958 (revised 1978).

(2) Santa Ana, 1:250,000 series, 1959 (revised 1979).

(3) Long Beach, 1:250,000 series, 1957 (revised 1978).

(4) Wildomar Quadrangle, 7.5 minute series, 1953 (photorevised 1973).

(c) *Boundary*—(1) *General.* The South Coast viticultural area is located in California. The starting point of the following boundary description is the northern intersection of the Orange County line with the Pacific Ocean (on the Long Beach map).

(2) *Boundary Description.* (i) From the starting point generally northeastward, eastward, and southeastward along the Orange County line, to the intersection of that county line with the township line on the northern border of Township 7 South (in Range 6 West; on the Santa Ana map).

(ii) From there eastward along that township line to its intersection with the northern boundary of the Temecula viticultural area described in § 9.50; at this point, the Temecula viticultural area boundary coincides with the boundary of the Cleveland National Forest (on the Wildomar Quadrangle map).

(iii) From there following the northern boundary of the Temecula viticultural area, at and near its northernmost point, generally northeastward, eastward, and southeastward until the Temecula viticultural area boundary again intersects the township line on the northern border of Township 7 South (in Range 4 West; thus all of the Temecula viticultural area is included inside of South Coast viticultural area).

(iv) Then eastward, along the township line on the northern border of Township 7 South, to the San Bernardino Meridian (on the Santa Ana map).

(v) Then southward along the San Bernardino Meridian to the Riverside County-San Diego County line.

(vi) Then westward along that county line for about 7½ miles, to the western boundary of the Cleveland National Forest (near the Pechanga Indian Reservation).

(vii) Then generally southeastward along the Cleveland National Forest boundary to where it joins California Highway 76.

(viii) From there generally southeastward along Highway 76 to California Highway 79.

(ix) Then southeastward along Highway 79 to the township line on the northern border of Township 12 South (in Range 3 East).

(x) Then eastward along that township line to its intersection with the range line on the eastern border of Range 3 East.

(xi) From there southward along that range line to the U.S.-Mexico international border.

(xii) Then westward along that international border to the Pacific Ocean.

(xiii) Then generally northwestward along the shore of the Pacific Ocean to the starting point.

[T.D. ATF–218, 50 FR 48084, Nov. 21, 1985]

### §9.105 Cumberland Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Cumberland Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Cumberland Valley viticultural area are the following 32 U.S.G.S. topographical maps of the 7.5 minute series:

(1) ''Williamsport Quadrangle'', edition of 1969.

(2) ''Shepherdstown Quadrangle'', edition of 1978.

(3) ''Keedysville Quadrangle'', edition of 1978.

(4) ''Middletown Quadrangle'', edition of 1953, photo-revised 1979.

(5) ''Myersville Quadrangle'', edition of 1953, photo-revised 1971.

(6) ''Smithsburg Quadrangle'', edition of 1953, photo-revised 1971.

(7) ''Waynesboro Quadrangle'', edition of 1944, photo-revised 1968 and 1973.

(8) ''Iron Springs Quadrangle'', edition of 1953, photo-revised 1968 and 1973.

(9) ''Scotland Quadrangle'', edition of 1944, photo-revised 1968 and 1973.

(10) ''Caledonia Park Quadrangle'', edition of 1944, photo-revised 1968 and 1973.

(11) ''Walnut Botton Quadrangle'', edition of 1952, photo-revised 1969 and 1977.

(12) ''Dickinson Quadrangle'', edition of 1952, photo-revised 1969 and 1977.

(13) ''Mount Holly Springs Quadrangle'', edition of 1952, photo-revised 1968 and 1973.

(14) ''Mechanicsburg Quadrangle'', edition of 1952, photo-revised 1968 and 1973.

(15) ''LeMoyne Quadrangle'', edition of 1963, photo-revised 1972.

(16) ''Steelton Quadrangle'', edition of 1963, photo-revised 1972.

(17) ''Harrisburg West Quadrangle'', edition of 1969, photo-revised 1974.

(18) ''Wertzville Quadrangle'', edition of 1952, photo-revised 1968 and 1973.

(19) ''Sherman's Dale Quadrangle'', edition of 1952, photo-revised 1968 and 1973.

(20) ''Landisburg Quadrangle'', edition of 1952, photo-revised 1969 and 1977.

(21) ''Andersonburg Quadrangle'', edition of 1952, photo-revised 1969 and 1977.

(22) ''Newville Quadrangle'', edition of 1952, photo-revised 1969 and 1975.

(23) ''Newburg Quadrangle'', edition of 1966, photo-revised 1973.

(24) ''Doylesburg Quadrangle'', edition of 1966, photo-revised 1973.

(25) ''Roxbury Quadrangle'', edition of 1966, photo-revised 1973.

(26) ''Fannettsburg Quadrangle'', edition of 1966, photo-revised 1973.

(27) ''St. Thomas Quadrangle'' edition of 1944, photo-revised 1968 and 1973.

(28) ''McConnellsburg Quadrangle'', edition of 1944, photo-revised 1968 and 1973.

(29) ''Mercersburg Quadrangle'', edition of 1943, photo-revised 1968 and 1973.

(30) ''Clear Spring Quadrangle'', edition of 1955, photo-revised 1971.

(31) ''Hedgesville Quadrangle'', edition of 1979.

(32) ''Mason Dixon Quadrangle'', edition of 1943–53 (photorevised 1971).

(33) ''Hagerstown Quadrangle'', edition of 1943–53 (photorevised 1971, photoinspected 1977).

(34) ''Funkstown Quadrangle'', edition of 1943–53 (photorevised 1971, photoinspected 1977).

(35) ''Plainfield Quadrangle'', edition of 1975.

(36) ''Shippensburg Quadrangle'', edition of 1973.

(37) ''Chambersburg Quadrangle'', edition of 1973.

(38) ''Williamson Quadrangle'', edition of 1973.

(39) ''Greencastle Quadrangle'', edition of 1973.

(40) ''Dillsburg Quadrangle'', edition of 1973.

(c) *Boundary*. The Cumberland Valley viticultural area is located in Washington County in west-central Maryland and Franklin and Cumberland counties in south-central Pennsylvania. The boundary is as follows:

(1) Starting immediately west of the Town of Williamsport in Washington County, Maryland, at Lock 45 of the Chesapeake & Ohio (C&O) Canal National Historical Park and the confluence of the Potomac River and Conococheague Creek (see Williamsport Quadrangle), the boundary proceeds in a southeasternly direction along the perimeter of the park on the northeastern bank of the Potomac River to the confluence of Antitam Creek and the Potomac River;

(2) Then southeast of Limekiln Road which runs along the perimeter of the park from Antietam Creek to the intersection of Limekiln Road and Harpers Ferry Road;

(3) Then northeasterly a straight line approximately two miles to the 952-foot summit of Hawk's Hill;

(4) Then northerly on a straight line approximately 2.5 miles to the intersection of Red Hill Road and Porterstown Road;

(5) Then southeasterly along Porterstown Road to its intersection with Mount Briar—Trego Road;

(6) Then southerly along Mount Briar—Trego Road to its intersection with Millbrook Road;

(7) Then east along Millbrook Road to its intersection with State Route 67, approximately 0.5 mile north of Rohersville, Maryland;

(8) Then directly east approximately 1.25 miles in a straight line to the 1,000-foot contour line of South Mountain;

(9) Then in a north northeasterly direction along the 1,000-foot contour line of South Mountain in Washington County, Maryland, and Franklin and Cumberland counties in Pennsylvania to the point on South Mountain where the 1,000-foot contour line crosses State Hollow Road (Rt. 233);

(10) Then north along Rt. 233 to the point where it crosses the 750-foot contour of South Mountain;

(11) Then east along the 750-foot contour line of South Mountain to the point southwest of the Mount Holly Springs Reservoir where Cold Spring Run, a tributary of Yellow Breeches Creek, crosses the 750-foot contour line, approximately 3 miles southwest of the town of Mount Holly Springs, Pennsylvania;

(12) Then east northeast in a straight line approximately seven miles to Center Point Knob, elev. 1050 feet, approximately two miles southeast of Boiling Springs, Pennsylvania (see Mechanicsburg Quadrangle);

(13) Then continuing east northeast in a straight line approximately six miles to the point where U.S. Rt. 15 crosses Yellow Breeches Creek, approximately one mile east of Williams Grove, Pennsylvania;

(14) Then east and northeast in a meandering line along the north bank of Yellow Breeches Creek to its confluence with the Susquehanna River;

(15) Then north along the west bank of the Susquehanna River, which forms the western portion of the corporate boundary line of the City of Harrisburg, Pennsylvania, to the point where the 300-foot contour line and the west bank of the Susquehanna River meet;

(16) Then directly west to the 700-foot contour line of Blue Mountain overlooking the Susquehanna River;

(17) Then along the 700-foot contour line of Blue Mountain as it meanders west and around McClures Gap;

(18) Then along the 700-foot contour line of Blue Mountain to the point where the 700-foot contour line crosses State Rt. 233;

(19) Then northeast along Rt. 233 through Doubling Gap to the 1,000-foot contour line of Blue Mountain;

(20) Then in a generally southwesterly direction along the 1,000-foot contour line of Blue Mountain into Franklin County to the point where the 1,000-foot contour line meets the roadbed of the Pennsylvania Turnpike, Interstate 76;

(21) Then along the roadbed of the Pennsylvania Turnpike to the east entrance of the Blue Mountain Tunnel;

(22) Then in a straight line approximately 6.5 miles to the intersection of State Rt. 533 and the 1,000-foot contour line of Blue Mountain, approximately one mile west northwest of Upper Strasburg, Pennsylvania;

(23) Then southwest along the 1,000-foot contour line of Blue Mountain to

and along the 1,000-foot contour line of Broad Mountain;

(24) Then along the 1,000-foot contour line as it meanders along and around Broad Mountain and Front Mountain to the point where the 1,000-foot contour line crosses Wilson Run near Franklin Furnace, Pennsylvania;

(25) Then southwest in a straight line approximately 3.5 miles to Parnell Knob, elev. 2060 feet;

(26) Then west northwest in a straight line approximately four miles to the point where the 1,000-foot contour line crosses Township Run near Cape Horn on Cove Mountain, approximately two miles north northwest of Fort Loudon, Pennsylvania;

(27) Then southwest along the 1,000-foot contour line of Cove Mountain into and out of Cove Gap;

(28) Then along the 1,000-foot contour line of Cove Mountain and Two Top Mountain in Franklin County, Pennsylvania, and Sword Mountain and Fairview Mountain in Washington County, Maryland, to the point on Fairview Mountain where the 1,000-foot contour line intersects the National Road (U.S. Rt. 40);

(29) Then west along U.S. Rt. 40 approximately 0.5 mile to the intersection of U.S. Rt. 40 and Cove Road;

(30) Then south in a straight line from the intersection of U.S. Rt. 40 and Cove Road approximately 1.25 miles to the intersection of McCoys Ferry Road and State Rt. 56;

(31) Then south along McCoys Ferry Road to the perimeter of the C&O Canal National Historical Park along the Potomac River;

(32) Then southeast along the perimeter of the C&O National Historical Park to the point of beginning.

[T.D. ATF–210, 50 FR 29971, July 23, 1985, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987]

### §9.106 North Yuba.

(a) *Name.* The name of the viticultural area described in this section is ''North Yuba.''

(b) *Approved maps.* The appropriate maps for determining the boundary of North Yuba viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series:

(1) ''Oregon House Quadrangle,'' edition of 1948, photo-revised 1969.

(2) ''Rackerby Quadrangle,'' edition of 1948, photo-revised 1969.

(3) ''Challenge Quadrangle,'' edition of 1948 photo-revised 1969.

(4) ''French Corral Quadrangle,'' edition of 1948, photo-revised 1969.

(c) *Boundary.* The North Yuba viticultural area is located in Yuba County in the State of California. The boundary is as follows:

(1) Beginning on the ''Oregon House Quadrangle'' map at the point where the Browns Valley Ditch crosses Woods Creek in the southwest corner of section 25, T. 17 N., R. 6 E., the boundary proceeds northeasterly in a meandering line approximately 1.5 miles along the east bank of Woods Creek to the point near Richards Ranch where the paved light duty road crosses said creek;

(2) Then west and north, approximately 0.33 mile to the point where the paved light duty road meets the unimproved dirt road accessing Dixon Hill and Texas Hill;

(3) Then northwest continuing along the paved light duty road approximately 2.75 miles to the intersection at Oregon House of said light duty road with the medium duty road which travels east and west between Virginia Ranch Reservoir of Dry Creek and the Yuba County Forestry Headquarters near Dobbins;

(4) Then northeasterly, 0.7 mile, along same light duty road to its intersection with the unimproved dirt road to Lake Mildred, located in the northwest corner of section 2, T. 17 N., R. 6 E.;

(5) Then northwesterly, 1.0 miles, along the unimproved dirt road to the end of said road at the shoreline of Lake Mildred;

(6) Then southwest along the shoreline of Lake Mildred to the Los Verjeles Dam at the westernmost end of said lake;

(7) Then across the face of said dam and continuing northeast along the shoreline of Lake Mildred to the point where the stream running through Smokey Ravine flows into Lake Mildred;

(8) Then north and west along said stream to the point where the stream crosses the 1,900-foot contour line in

the northeast corner of section 27, T. 18 N., R. 6 E.;

(9) Then southwest in a meandering line along the 1.900-foot contour line of Lamb Hill;

(10) Then northwest along the 1,900-foot contour line of High Spring Ridge to the point where the medium duty paved road running north and south along Willow Glen Creek crosses the 1,900-foot contour line, approximately 0.75 mile north of Finley Ranch;

(11) Then north along said road, approximately 1 mile, to its intersection at Willow Glen Ranch near the west boundary line of section 15, T. 18 N., R. 6 E., with the light duty road which crosses Critterden Ridge;

(12) Then in a generally easterly direction along said road, approximately 2.0 miles, to its point of intersection with the light duty paved road named Frenchtown Road which runs north and south between Brownsville and Frenchtown;

(13) Then south along the Frenchtown Road to the point where the road crosses the 1,600-foot contour line in the northwest corner of section 24, T. 18 N., R. 6 E.;

(14) Then east along the 1,600-foot contour line to the point where Dry Creek crosses the 1,600-foot contour line near the south boundary line of section 13, T. 18 N., R. 6 E.;

(15) Then south along Dry Creek, approximately 0.16 mile, to the confluence of Indiana Creek with Dry Creek;

(16) Then in a generally easterly direction, approximately 1 mile, along Indiana Creek to the confluence of Keystone Creek with Indiana Creek;

(17) Then north along indiana Creek, approximately 0.87 mile, to the point where Indiana Creek meets the 2,000-foot contour line of Oregon Hills;

(18) Then in a generally southeasterly direction along the 2,000-foot contour line of Oregon Hills, approximately 6 miles, to the point near the east boundary line of section 9, T. 17 N., R. 7 E., where the power transmission line on Red Bluff crosses the 2,000-foot contour line;

(19) Then southwest along the right of way of said power transmission line to the point near the south boundary of section 9, T. 17 N., R. 7 E., where it meets the power transmission line running northwest and southeast between Dobbins and the Colgate Power House;

(20) Then southeast along the power transmission line between Dobbins and Colgate Power House to the Colgate Power House;

(21) Then in a generally westerly direction from the Colgate Power House along the power transmission line which crosses over Dobbins Creek to the point west of Dobbins Creek where the power transmission line intersects the 1,000-foot contour line;

(22) Then in a generally southwesterly direction along the 1,000-foot contour line above the north bank of the Yuba River and Harry L. Englebright lake of the Yuba River to the intersection of the 1,000-foot contour line with Woods Creek in the northeast corner of section 36, T. 17 N., R. 6 E.;

(23) Then east and north along the east bank of Woods Creek, approximately 0.5 miles, to the point of beginning.

[T.D. ATF–211, 50 FR 30820, July 30, 1985]

### § 9.107 Lodi.

(a) *Name.* The name of the viticultural area described in this section is ''Lodi.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lodi viticultural area are 18 U.S.G.S. 7.5 minute series maps and are titled as follows:

(1) Valley Springs SW, Calif. 1962;

(2) Farmington, Calif. 1968 (Photorevised 1987);

(3) Peters, CA 1952 (Photorevised 1968);

(4) Stockton East, Calif. 1968 (Photorevised 1987);

(5) Waterloo, Calif. 1968 (Photoinspected 1978);

(6) Lodi South, Calif. 1968 (Photorevised 1976);

(7) Terminous, Calif. 1978 (Minor Revision 1993);

(8) Thornton, Calif. 1978;

(9) Bruceville, Calif. 1968 (Photorevised 1980);

(10) Florin, Calif. 1968 (Photorevised 1980);

(11) Elk Grove, Calif. 1968 (Photorevised 1979);

(12) Sloughhouse, Calif. 1968 (Photorevised 1980, Minor Revision 1993);

(13) Buffalo Creek, Calif. 1967 (Photorevised 1980);

(14) Folsom SE, Calif. 1954 (Photorevised 1980);

(15) Carbondale, Calif. 1968 (Photorevised 1980, Minor Revision 1993);

(16) Goose Creek, Calif. 1968 (Photorevised 1980, Minor Revision 1993);

(17) Clements, Calif. 1968 (Minor Revision 1993); and

(18) Wallace, Calif. 1962.

(c) *Boundaries.* The Lodi viticultural area is located in California in the counties of Sacramento and San Joaquin. The beginning point is located at the intersection of the Calaveras River and the San Joaquin-Stanislaus County line (Valley Springs SW, Calif. map).

(1) From the beginning point, proceed south along the San Joaquin-Stanislaus County line to its intersection with State Route 4, also known as Funck Road, T1N, R9E (Farmington, Calif. map);

(2) Then proceed west on State Route 4 (west on Funck Road, then south on Waverly Road, then west through the village of Farmington on Farmington Road) to State Route 4's intersection with Jack Tone Road, T1N, R7E (beginning on the Farmington, Calif. map, passing through the Peters, CA map, and ending on the Stockton East, Calif. map);

(3) Then proceed north along Jack Tone Road to its intersection with Eightmile Road, T3N, R7E (ending on the Waterloo, Calif. map);

(4) Then proceed west along Eightmile Road to its intersection with Bishop Cut, T3N, R5E (beginning on the Waterloo, Calif. map, passing through the Lodi South, Calif. map, and ending on the Terminous, Calif. map);

(5) Then proceed north along Bishop Cut to White Slough, T3N, R5E (Terminous, Calif. map);

(6) Then proceed west along White Slough to an unnamed drainage canal on Terminous Tract, across the slough from a marked pumping station on King Island, T3N, R5E (Terminous, Calif. map);

(7) Then proceed straight northwest on the Terminous Tract to the south end of Peatland Road and follow it north to its intersection with State Route 12, T3N, R5E (Terminous, Calif. map);

(8) Then proceed west 0.2 mile on State Route 12 to its intersection with an unnamed unimproved road at BM–8, and continue straight northwest on the Terminous Tract to the marked siphon on the south side of Sycamore Slough, T3N, R5E (ending on the Thornton, Calif. map);

(9) Then proceed in a straight line north-to-northeast across Brack Tract, Hog Slough and Canal Ranch to the line's intersection with Beaver Slough near the 90-degree east turn of an unnamed light duty road, west of a small cluster of buildings, T4N, R5E (Thornton, Calif. map);

(10) Then proceed west along Beaver Slough to its intersection with the South Mokelumne River, following the river north and east to its intersection with Interstate 5 (marked as under construction), T5N, R5E ( ending on the Bruceville, Calif. map);

(11) Then proceed northwest along Interstate 5 to its intersection with an unnamed road, locally known as Hood-Franklin Road.

(12) From Interstate 5, proceed east on Hood-Franklin Road to its intersection with Franklin Boulevard, Section 17, T6N, R5E (ending on the Florin, Calif. map);

(13) Proceed generally north along Franklin Boulevard to its intersection with Sims Road and a section line running due east marking the northern boundary of Section 28, T7N, R5E (Florin, Calif. map).

(14) Follow this section line due east to its junction with Sheldon Road and then proceed east along Sheldon Road to its intersection with the Central California Traction Co. Railroad (beginning on the Florin, Calif. map and ending on the Elk Grove, Calif. map);

(15) Proceed southeast along the Central California Traction Co. Railroad to its intersection with Grant Line Road (Elk Grove, Calif. map);

(16) Then northeast along Grant Line Road to its intersection with State Highway 16 (beginning on the Elk Grove, Calif. map, passing through the

Sloughhouse, Calif. map, and ending on the Buffalo Creek, Calif. map);

(17) Proceed southeast along State Highway 16 to its intersection with Deer Creek (ending on the Sloughhouse, Calif. map);

(18) Then proceed generally northeast along Deer Creek to its intersection with the eastern boundary of Sacramento County (beginning on the Sloughhouse, Calif. map, passing through the Buffalo Creek, Calif. map, and ending on the Folsom SE, Calif. map); and

(19) Proceed generally south along the eastern boundary of Sacramento County to the meeting point of Sacramento, Amador, and San Joaquin Counties (beginning on the Folsom SE, Calif. map, passing through the Carbondale, Calif. map, and ending on the Goose Creek, Calif. map); and

(20) Then proceed generally south-southeast along the eastern boundary of San Joaquin County to the point of beginning (beginning on the Goose Creek, Calif. map, passing through the Clements, Calif. and Wallace, Calif. maps, and ending on the Valley Springs SW, Calif. map).

[T.D. ATF–223, 51 FR 5324, Feb. 13, 1986, as amended by T.D. ATF–482, 67 FR 56484, Sept. 4, 2002]

### § 9.108 Ozark Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Ozark Mountain.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of Ozark Mountain viticultural area are 11 U.S.G.S. maps in the scale of 1:250,000. They are titled—

(1) St. Louis, Missouri (1963, revised 1969);

(2) Jefferson City, Missouri (1955, revised 1970);

(3) Springfield, Missouri (1954, revised 1969);

(4) Joplin, Missouri; Kansas (1954, revised 1974);

(5) Tulsa, Oklahoma; Arkansas; Missouri; Kansas (1958, revised 1973);

(6) Fort Smith, Arkansas-Oklahoma (1978);

(7) Russellville, Arkansas (compiled in 1954);

(8) Memphis, Tennessee; Arkansas; Missouri (1953, revised 1978);

(9) Poplar Bluff, Missouri; Arkansas (1957, revised 1978);

(10) Paducah, Kentucky; Illinois; Missouri; Indiana (1949, revised 1969); and

(11) Rolla, Missouri; Illinois (1954, revised 1969).

(c) *Boundary*—(1) *General.* The Ozark Mountain viticultural area is located in Missouri, Oklahoma, and Arkansas. The starting point of the following boundary description is the point at which the Missouri River joins the Mississippi River north of St. Louis, Missouri (on the St. Louis map).

(2) *Boundary Description.* (i) The boundary proceeds from the starting point westward along the Missouri River until it meets the Osage River;

(ii) Then further westward along the Osage River (flowing through Lake of the Ozarks and the Harry S. Truman Reservoir) until it passes adjacent to Missouri Highway 82 in Osceola, Missouri (on the Jefferson City map);

(iii) Then southwestward along Missouri Highway 82 until it intersects U.S. Highway 54 in Eldorado Springs, Missouri (on the Joplin map);

(iv) Then westward along U.S. Highway 54 until it intersects U.S. Highway 71 near Nevada, Missouri;

(v) Then southward along U.S. Highway 71 until it intersects Interstate Highway 44, approximately 5 miles south of Carthage, Missouri;

(vi) Then westward and southwestward along Interstate Highway 44 into the State of Oklahoma, and continuing southwestward until Interstate Highway 44 crosses the Neosho River near Miami, Oklahoma (on the Tulsa map);

(vii) Then southward along the Neosho River (flowing through the Lake of the Cherokees, Lake Hudson, and Fort Gibson Lake) until it flows into the Arkansas River, approximately 2 miles west of Fort Gibson, Oklahoma (on the Fort Smith map);

(viii) Then southward and eastward along the Arkansas River (flowing through the Robert S. Kerr Lake) into the State of Arkansas, and continuing eastward until the Arkansas River is joined by Vache Grasse Creek, approximately 4 miles east of Barling, Arkansas;

(ix) Then southeastward and southwestward following Vache Grasse Creek to the place where it is crossed

by Arkansas Highway 10, near Greenwood, Arkansas;

(x) Then westward along Highway 10 to U.S. Highway 71. Note: Highway 10 is the primary highway leading from Greenwood to Hackett, Arkansas;

(xi) Then southward and eastward along Highway 71 until it crosses Rock Creek;

(xii) Then northeastward along Rock Creek to Petit Jean Creek;

(xiii) Then generally northeastward and eastward along Petit Jean Creek until it becomes the Petit Jean River (on the Russellville map);

(xiv) Then generally eastward along the Petit Jean River, flowing through Blue Mountain Lake, until the Petit Jean River joins the Arkansas River;

(xv) Then generally eastward along the Arkansas River to Cadron Creek;

(xvi) Then northeastward and eastward along Cadron Creek, for about 2½ miles, until it pases under U.S. Highway 64, approximately 3½ miles west of Conway, Arkansas;

(xvii) Then eastward along U.S. Highway 64 until it intersects U.S. Highway 67, near Beebe, Arkansas (on the Memphis map);

(xviii) Then northeastward along U.S. Highway 67 into the state of Missouri, then northward until U.S. Highway 67 intersects U.S. Highway 60, in Poplar Bluff, Missouri (on the Poplar Bluff map);

(xix) Then eastward along U.S. Highway 60 until it crosses the western boundary of Stoddard County. Note: Here that boundary is the St. Francis River;

(xx) Then northward, northeastward, and eastward along the boundary of Stoddard County until it joins the southern boundary of Cape Girardeau County (on the Cape Girardeau map);

(xxi) Then northeastward along the Cape Girardeau County boundary until it meets the Mississippi River south of Cape Girardeau, Missouri;

(xxii) Then northward along the Mississippi River to the starting point.

[T.D. ATF–231, 51 FR 24144, July 2, 1986; 51 FR 25366, July 14, 1986]

### §9.109 Northern Neck George Washington Birthplace.

(a) *Name.* The name of the viticultural area described in this section is ''Northern Neck George Washington Birthplace.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Northern Neck George Washington Birthplace viticultural area are 2 U.S.G.S. 1:250,000 scale maps. They are entitled:

(1) Washington, DC; Maryland; Virginia, 1957 (Revised 1979); and

(2) Richmond, VA; MD., 1973.

(c) *Boundaries.* The Northern Neck George Washington Birthplace viticultural area consists of all of the lands in the Counties of Westmoreland, King George, Northumberland, Lancaster and Richmond, in the Commonwealth of Virginia. The boundaries of the Northern Neck George Washington Birthplace viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

(1) Beginning on the Washington, DC; Maryland; Virginia U.S.G.S. map at a point on Potomac Creek where the King George County western boundary line at its northermost point intersects Potomac Creek the boundary proceeds easterly and southeasterly on the Richmond, VA; MD. U.S.G.S. map, along the Virginia shoreline of the Potomac River for approximately 66 miles to Smith Point on the Chesapeake Bay;

(2) Thence southerly along the shoreline of the Chesapeake Bay for approximately 20 miles to Windmill Point at the mouth of the Rappahannock River;

(3) Thence northwesterly along the banks of the Rappahannock River for approximately 72 air miles to Muddy Creek at the point where the western boundary line of King George County at its southernmost point begins;

(4) Thence northward along the King George County/Stafford County line approximately 7 miles to the point of the beginning.

[T.D. ATF–250, 52 FR 13082, Apr. 21, 1987]

### §9.110 San Benito.

(a) *Name.* The name of the viticultural area described in this section is ''San Benito.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of San Benito viticultural area are six U.S.G.S. maps. They are titled:

(1) Hollister Quadrangle, 7.5 minute series, 1955 (photorevised 1971).

(2) Tres Pinos Quadrangle, 7.5 minute series, 1955 (photorevised 1971).

(3) Quien Sabe Valley Quadrangle, 7.5 minute series, 1968.

(4) Mt. Harlan Quadrangle, 7.5 minute series, 1968.

(5) Paicines Quadrangle, 7.5 minute series, 1968.

(6) Cherry Peak Quadrangle, 7.5 minute series, 1968.

(c) *Boundary*—(1) *General.* The San Benito viticultural area is located in San Benito County, California. The starting point of the following boundary description is the point where the eastern border of Section 17 of Township 15 South, Range 7 East, crosses the latitude 36°37′30″ (on the Cherry Peak map).

(2) *Boundary Description.* (i) From the starting point, westward along latitude 36°37′30″ to the Range Line R.6E./R.7E. (on the Paicines map).

(ii) Then northward along that range line to the southern border of Section 1, Township 15 South, Range 6 East.

(iii) Then westward along that southern border to the western border of the same section.

(iv) Then northward along that western border to the 800-foot contour line.

(v) Then northwestward along that contour line to the Township Line T.14S./T.15S.

(vi) Then westward along that township line to the southern border of Section 34, Township 15 South, Range 6 East.

(vii) Then continuing westward along that southern border to the 1200-foot contour line.

(viii) Then generally northwestward along that contour line until it crosses for the second time the southern border of Section 28, Township 14 South, Range 6 East.

(ix) Then westward along that southern border to the 1400-foot contour line.

(x) Then following the 1400-foot contour line through the folloowing sections: Sections 28, 29, and 30, Township 14 South, Range 6 East; Section 25, Township 14 South, Range 5 East; Sections 30, 19, 20, and returning to 19, Township 14 South, Range 6 East; to the point where the 1400-foot contour line intersects the section line between Sections 19 and 18, Township 14 South, Range 6 East.

(xi) From there in a straight line due northward to the 1200-foot contour line in Section 18, Township 14 South, Range 6 East.

(xii) Then following the 1200-foot contour line generally northwestward to the northern border of Section 10, Township 14 South, Range 5 East (on the Mt. Harlan map).

(xiii) Then following that northern border northwestward to the 1600-foot contour line.

(xiv) Then following the 1600-foot contour line generally northward to an unimproved road.

(xv) Then looping southward along the unimproved road and continuing eastward past the designated ''Spring'' and then northward parallel with Bonanza Gulch to the Vineyard School on Cienega Road (on the Hollister map).

(xvi) From there in a straight line northeastward, crossing Bird Creek and the San Benito River, to the northwestern corner of Section 19, Township 13 South, Range 6 East (on the Tres Pinos map).

(xvii) From there following the northern border of Sections 19 and 20, Township 13 South, Range 6 East, to the northeastern corner of Section 20.

(xviii) From there in a straight line due eastward to the Range line R.6E./R7E.

(xix) Then southward along that Range line to the Township line T.13S./T.14S.

(xx) Then eastward along that Township line to the eastern border of Section 6, Township 14 South, Range 7 East (on the Quien Sabe Valley map).

(xxi) Then southward along the eastern border of Sections 6, 7, and 18, Township 14 South, Range 7 East, to the northern border of Section 20, Township 14 South, Range 7 East (on the Cherry Peak map).

(xxii) Then eastward along that northern border to the eastern border of Section 20.

(xxiii) Then southward along the eastern border of Sections 20, 29, and 32, Township 14 South, Range 7 East, and continuing southward along the eastern border of Sections 5, 8, and 17,

Township 15 South, Range 7 East, to the starting point.

[T.D. ATF–258, 52 FR 37137, Oct. 5, 1987]

### §9.111 Kanawha River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Kanawha River Valley''.

(b) *Approved maps.* The approved maps for determining the boundary of the Kanawha River Valley viticultural area are 20 U.S.G.S. topographic maps in the 7.5-Minute series as follows:

(1) Addison, Ohio—W. Va., dated 1960;

(2) Gallipolis, Ohio—W. Va., dated 1958;

(3) Apple Grove, Ohio—W. Va., dated 1968, photorevised 1975;

(4) Glenwood, W. Va.—Ohio, dated 1968;

(5) Milton, W. Va., dated 1972;

(6) West Hamlin, W. Va., dated 1957;

(7) Hamlin, W. Va., dated 1958;

(8) Garrets Bend, W. Va., dated 1958;

(9) Scott Depot, W. Va., dated 1958;

(10) Saint Albans, W. Va., dated 1958;

(11) Pocatalico, W. Va., dated 1958;

(12) Sissonville, W. Va., dated 1958;

(13) Romance, W. Va.,—Ky., dated 1957;

(14) Kentuck, W. Va., dated 1957;

(15) Kenna, W. Va., dated 1957;

(16) Ripley, W. Va., dated 1960;

(17) Cottageville, W. Va., dated 1960;

(18) Mount Alto, W. Va.—Ohio, dated 1958, photorevised 1972;

(19) Beech Hill, W. Va.—Ohio, dated 1957, photorevised 1975;

(20) Cheshire, W. Va.—Ohio, dated 1968;

(c) *Boundary description.* The boundary description of the Kanawha River Valley viticultural area includes (in parentheses) the name of the map on which each described point is found. The boundary description is as follows:

(1) The beginning point is the West Virginia-Ohio State Line at the confluence of Champaign Creek and the Ohio River. (Addison quadrangle)

(2) The boundary follows the West Virginia-Ohio State Line, in the Ohio River (across the Gallipolis and Apple Grove quadrangles) southwesterly to the point at which the Mason County-Cabell County Line intersects the State Line. (Glenwood quadrangle)

(3) The boundary proceeds in a straight line southerly to the benchmark at 583 ft. elevation in the town of Yates Crossing in Cabell County, WV. (Milton quadrangle)

(4) The boundary proceeds in a straight line southeasterly to the benchmark at 640 ft. elevation in the town of Balls Gap, in Lincoln County, WV. (West Hamlin quadrangle)

(5) The boundary proceeds in a straight line easterly (across the Hamlin, Garrett Bend, and Scott Depot quadrangles) to the benchmark at 590 ft. elevation in the town of Institute in Kanawha County, WV. (Saint Albans quadrangle)

(6) The boundary proceeds in a straight line northeasterly to the benchmark at 654 ft. elevation in the town of Pocatalico, in Kanawha County, WV. (Pocatalico quadrangle)

(7) The boundary proceeds in a straight line northeasterly (across the Sissonville quadrangle) to the confluence of Johns Branch and Sugar Creek in the town of Romance, in Jackson County, WV. (Romance quadrangle)

(8) The boundary proceeds in a straight line northwesterly (across the Kentuck quadrangle) to the confluence of Plum Orchard Run and Stonelick Creek in the town of Plum Orchard, in Jackson County, WV. (Kenna quadrangle)

(9) The boundary proceeds in a straight line northwesterly (across the Ripley quadrangle) to the Baltimore and Ohio Railroad crossing of State Highway 87 in the town of Evans, in Jackson County, WV. (Cottageville quadrangle)

(10) The boundary proceeds in a straight line northwesterly (across the Mount Alto quadrangle) to the benchmark at 674 ft. elevation in the town of Flatrock, in Mason County, WV. (Beech Hill quadrangle)

(11) The boundary proceeds northwesterly in a straight line (across the Cheshire quadrangle) to the beginning point.

[T.D. ATF–226, 51 FR 11913, Apr. 8, 1986]

### §9.112 Arkansas Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Arkansas Mountain.''

(b) *Approved maps.* The appropriate maps for determining the boundary of

the Arkansas Mountain viticultural area are two U.S.G.S. maps, titled:

(1) Russellville, Arkansas, 1:250,000 series compiled in 1954.

(2) Fort Smith, Arkansas-Oklahoma, 1:250,000 series, 1978.

(c) *Boundary*—(1) *General.* The Arkansas Mountain viticultural area is located in northwestern Arkansas. Starting at the point where Frog Bayou converges with the Arkansas River, near Yoestown, Arkansas (or the Fort Smith map), the boundary proceeds:

(2) *Boundary Description.* (i) Southwestward along the Arkansas River to Vache Grasse Creek.

(ii) Then southeastward and southwestward following Vache Grasse Creek to the place where it is crossed by Arkansas Highway 10, near Greenwood, Arkansas.

(iii) From there westward along Highway 10 to U.S. Highway 71. (Note: Highway 10 is the primary highway leading to Greenwood to Hackett, Arkansas.)

(iv) Then southward and eastward along Highway 71 until it crosses Rock Creek.

(v) Then northeastward along Rock Creek to Petit Jean Creek.

(vi) Then generally northeastward and eastward along Petit Jean Creek until it becomes the Petit Jean River (on the Russellville map).

(vii) Then generally eastward along the Petit Jean River, flowing through Blue Mountain Lake, until the Petit Jean River joins the Arkansas River.

(viii) Then generally eastward along the Arkansas River to Cadron Creek.

(ix) Then generally northward and northeastward along Cadron Creek to the place where it is crossed by U.S. Highway 65.

(x) From there northward along Highway 65 to its intersection with Arkansas Highway 16 near Clinton, Arkansas.

(xi) From there following Highway 16 generally westward to its intersection with Arkansas Highway 23 in Brashears, Arkansas.

(xii) From there southward along Highway 23 to the Madison County-Franklin County line.

(xiii) Then westward and southward along that county line to the Madison County-Crawford County line.

(xiv) Then westward along that county line to the Washington County-Crawford County line.

(xv) Then westward along that county line to Jones Fork (on the Fort Smith map).

(xvi) Then southward along Jones Fork until it joins Frog Bayou near Winfrey, Arkansas.

(xvii) Then generally southward along Frog Bayou, flowing through Lake Shepherd Springs and Lake Fort Smith, to the starting point.

[T.D. ATF–235, 51 FR 34205, Sept. 26, 1986]

### § 9.113 North Fork of Long Island.

(a) *Name.* The name of the viticultural area described in this section is ''North Fork of Long Island.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the ''North Fork of Long Island'' viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) Wading River, N.Y., 7.5 minute series, scaled at 1:24,000 edition of 1967.

(2) Riverhead, N.Y., 7.5 minute series, scaled at 1:24,000, edition of 1956.

(3) New York, N.Y.; N.J.; Conn., U.S., 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979.

(4) Providence, R.I.; Mass.; Conn., N.Y., U.S., 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969.

(5) Hartford, Conn.; N.Y.; N.J.; Mass., U.S., 1:250,000 series, scaled at 1,250,000, edition of 1962, revised 1975.

(c) *Boundaries.* The boundaries of the proposed viticultural area are as follows: The North Fork of Long Island viticultural area is located entirely within eastern Suffolk County, Long Island, New York. The viticultural area boundaries consist of all of the land areas of the North Fork of Long Island, New York, including all of the mainland, shorelines and islands in the Townships of Riverhead, Shelter Island, and Southold.

(1) The point of beginning is on the Wading River, N.Y., 7.5 minute series, U.S.G.S. map at the northern boundary of the Brookhaven/Riverhead Township line on the Long Island Sound (approximately 500 feet east of the mouth of the Wading River);

(2) The boundary goes south on the Brookhaven/Riverhead Town line for approximately 6.5 miles until it meets

the Peconic River approximately 1 mile east of U.S. Reservation Brookhaven National Laboratory;

(3) Then the boundary travels east on the Peconic River (Brookhaven/Riverhead Town line) for 2.7 miles until it meets the Riverhead/Southampton Township line on the Riverhead, N.Y., U.S.G.S. map;

(4) It then goes east on the Riverhead/Southampton Township line for 4.2 miles until it reaches an area where the Peconic River widens north of Flanders;

(5) Then the boundary proceeds east to Orient Point then west along the shoreline, beaches, islands, and mainland areas of the North Fork of Long Island, described on the ''New York'', ''Providence'' and ''Hartford'' U.S.G.S. maps until it reaches the Brookhaven/Riverhead Township line at the point of beginning. These boundaries consist of all the land (and isolated islands including without limitation, Wicopesset Island, Robins Island, Fishers Island, Great Gull Island, Plum Island, and Shelter Island) in the Townships of Riverhead, Shelter Island, and Southold.

[T.D. ATF–240, 51 FR 36398, Oct. 10, 1986]

### §9.114 Old Mission Peninsula.

(a) *Name.* The name of the viticultural area described in this section is ''Old Mission Peninsula.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the ''Old Mission Peninsula'' viticultural area are 2 U.S.G.S. Quadrangle (15 Minute Series) maps, scaled at 1:62,500. They are entitled:

(1) Elk Rapids, Mich. (1957); and

(2) Traverse City, Mich. (1957).

(c) *Boundary.* The boundary in Grand Traverse County, Michigan, consists of all of Peninsula Township, excluding Marion and Bassett Islands. In addition, the viticultural area takes in a small portion of Traverse City Township.

(1) The beginning point is on the Traverse City, Mich., U.S.G.S. map at the shoreline of the West Arm of Grand Traverse Bay at Section 1, Township 27 North, Range 11 West (T27N, R11W), approximately 500 feet due west of the intersection of two unmarked light-duty roads (approx. 750 feet north of Bryant Park);

(2) The boundary proceeds north 19 miles along the western shoreline of the Old Mission Peninsula until it reaches the lighthouse near Old Mission Point at the north side of the Peninsula on the Elk Rapids, Mich., U.S.G.S. map, Sec. 23, T30N, R10W;

(3) It then proceeds south for approximately 19 miles along the eastern shoreline of the peninsula to the southeast portion of an unmarked light-duty road (known locally as Eastern Avenue) at Sec. 6, T27N, R10W on the Traverse City, Mich., U.S.G.S. map. The unmarked light-duty road is located immediately north of Northwestern Michigan College on the shoreline of the East Arm of the Grand Traverse Bay;

(4) The boundary travels west along the unmarked light-duty road (known locally as Eastern Avenue) for approximately one mile until it meets an unmarked north/south light-duty road at Sec. 1, T27N, R11W; and

(5) Finally, the boundary proceeds due east 500 feet to the beginning point on the shoreline of the West Arm of the Grand Traverse Bay at Sec. 1, T27N, R11W.

[T.D. ATF–252, 52 FR 21515, June 8, 1987]

### §9.115 Ozark Highlands.

(a) *Name.* The name of the viticultural area described in this section is ''Ozark Highlands.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Ozark Highlands viticultural area are three U.S.G.S. maps of the 1:250,000 series. They are titled:

(1) Rolla, Missouri; Illinois, 1954 (revised 1969).

(2) St. Louis, Missouri; Illinois, 1963 (revised 1969).

(3) Springfield, Missouri, 1954 (revised 1969).

(c) *Boundary*—(1) *General.* The Ozark Highlands viticultural area is located in south central Missouri. The area comprises portions of the following counties: Phelps, Maries, Osage, Gasconade, Franklin, Crawford, Texas, Shannon, Dent, Reynolds, and Pulaski. The beginning point of the following boundary description is the junction of Little Piney Creek and the Gasconade

River, near Jerome, Missouri (in the northwest corner of the Rolla map).

(2) *Boundary Description.* (i) From the beginning point, the boundary goes northward along the Gasconade River to the latitude line 38°00′ (the dividing line between the Rolla and St. Louis maps);

(ii) Then eastward along that latitude line to U.S. Highway 63;

(iii) Then northward along U.S. 63 to Spring Creek;

(iv) Then north-northwestward along Spring Creek to the Gasconade River;

(v) Then northward along the Gasconade River to a power transmission line (less than 1 mile north of Buck Elk Creek);

(vi) Then eastward and east-northeastward along that power transmission line to Missouri Route 19;

(vii) Then southward along Route 19 to the Bourbeuse River;

(viii) Then east-northeastward along the Bourbeuse River to the range line dividing R. 2 W. and R. 1 W.;

(ix) Then southward along that range line to the Meramec River;

(x) Then southwestward along the Meramec River to Huzzah Creek;

(xi) Then southward along Huzzah Creek to Dry Creek (on the Rolla map, where Missouri Route 8 crosses Huzzah Creek);

(xii) Then southward along Dry Creek to Cherry Valley Creek;

(xiii) Then south-southwestward along Cherry Valley Creek to Missouri Route 19;

(xiv) Then southward and southwestward along Route 19 to Crooked Creek;

(xv) Then northwestward along Crooked Creek to the Meramec River;

(xvi) Then southward along the Meramec River to Hutchins Creek;

(xvii) The southeastward along Hutchins Creek to its source near Missouri Route 32, across from the Howes Mill Post Office;

(xviii) Then in a straight line toward the Howes Mill Post Office to Route 32;

(xix) Then eastward along Route 32 to the range line dividing R. 3 W. and R. 2 W.;

(xx) Then southward along that range line to the township line dividing T. 33 N. and T. 32 N.;

(xxi) Then westward along that township line (which coincides, in R. 3 W., with the Reynolds County/Dent County line) to the boundary of Clark National Forest;

(xxii) Then generally southward along that national forest boundary to the Dent County/Shannon County line;

(xxiii) Then westward along that county line to the Current River;

(xxiv) Then southeastward along the Current River to Missouri Route 19;

(xxv) Then southward along Route 19 to Jack's Fork;

(xxvi) Then westward, southwestward and northwestward along Jack's Fork, taking the North Prong, to its northwesternmost source;

(xxvii) Then in a straight line northwestward to the southeasternmost source of Hog Creek;

(xxviii) Then northwestward along Hog Creek to the Big Piney River (on the Springfield map);

(xxix) Then northward along the Big Piney River to the township line dividing T. 35 N. and T. 36 N.;

(xxx) Then eastward along that township line to Little Piney Creek (on the Rolla map);

(xxxi) Then northward and westward along Little Piney Creek to the beginning point.

[T.D. ATF–256, 52 FR 32785, Aug. 31, 1987]

### § 9.116 Sonoma Coast.

(a) *Name.* The name of the viticultural area described in this section is ''Sonoma Coast''.

(b) *Approved map.* The approved maps for determining the boundary of the Sonoma Coast viticultural area are the following six U.S.G.S. topographic maps:

(1) Sonoma County, California, scale 1:100,000, dated 1970;

(2) Mark West Springs, California, 7.5-minute series, dated 1958, photoinspected 1978;

(3) Healdsburg, California, 7.5-minute series, dated 1955, photorevised 1980;

(4) Jimtown, California, 7.5-minute series, dated 1955, photorevised 1975;

(5) Guerneville, California, 7.5-minute series, dated 1955; and

(6) Cazadero, California, 7.5-minute series, dated 1978.

(c) *Boundary description.* In general, the boundary description of the Sonoma Coast viticultural area is found on the U.S.G.S. Topographic Map

of Sonoma County, California, scale 1:100,000, dated 1970. When a point of the boundary description is found on one of the 7.5-minute quadrangles, the boundary description indicates this in parentheses. The boundary description is as follows:

(1) The beginning point is the point at which the Sonoma County-Mendocino County line meets the shoreline of the Pacific Ocean.

(2) The boundary follows the shoreline of the Pacific Ocean southerly to the Sonoma County-Marin County line.

(3) The boundary follows the Sonoma County-Marin County line southeasterly to San Pablo Bay.

(4) The boundary follows the shoreline of San Pablo Bay easterly to the Sonoma County-Napa County line.

(5) The boundary follows the Sonoma County-Napa County line northerly to the peak of Arrowhead Mountain.

(6) From the peak of Arrowhead Mountain, the boundary proceeds in a straight line westerly to the peak of Sonoma Mountain.

(7) From the peak of Sonoma Mountain, the boundary proceeds in a straight line northwesterly to the peak of Taylor Mountain.

(8) From the peak of Taylor Mountain, the boundary proceeds in a straight line northwesterly to the point, near the benchmark at 184 ft. elevation in Section 34, Township 8 North, Range 8 West, at which Mark West Road crosses an unnamed stream which flows northwesterly into Mark West Creek. (Mark West Springs map)

(9) From this point, the boundary proceeds northerly in a straight line to the headwaters of Brooks Creek, in Section 4, Township 8 North, Range 8 West. (Mark West Springs map)

(10) The boundary follows Brooks Creek northwesterly to its confluence with the Russian River. (Healdsburg map)

(11) The boundary proceeds southwesterly in a straight line to an unidentified peak at elevation 672 ft. (Healdsburg map)

(12) The boundary proceeds northwesterly in a straight line to the peak identified as Black Peak. (Healdsburg map)

(13) The boundary proceeds westerly in a straight line to an unidentified peak at elevation 857 ft. (Healdsburg map)

(14) The boundary proceeds westerly in a straight line to the peak of Fitch Mountain at elevation 991 ft. (Healdsburg map)

(15) The boundary proceeds northwesterly in a straight line to the intersection, near a benchmark at elevation 154 ft. in the town of Chiquita, of a light-duty road (known locally as Chiquita Road) and a southbound primary highway, hard surface road (known locally as Healdsburg Avenue). (Jimtown map)

(16) The boundary follows that road (known locally as Healdsburg Avenue) southerly through the city of Healdsburg to the point at which it is a light-duty, hard or improved surface road, identified on the map as Redwood Highway, which crosses the Russian River, immediately south of the city of Healdsburg at a bridge (known locally as the Healdsburg Avenue Bridge). (Healdsburg map)

(17) The boundary follows the Russian River southerly to a point, near the confluence with Dry Creek, opposite a straight line extension of a light-duty, hard or improved surface road (known locally as Foreman Lane) located west of the Russian River. (Healdsburg map)

(18) The boundary proceeds in a straight line to that road and follows it westerly, then south, then westerly, onto the Guerneville map, across a secondary highway, hard surface road (known locally as Westside Road), and continues westerly, then northwesterly to the point at which it crosses Felta Creek. (Guerneville map)

(19) The boundary follows Felta Creek approximately 18,000 ft. westerly to its headwaters, at the confluence of three springs, located approximately 5,800 feet northwesterly of Wild Hog Hill. (Guerneville map)

(20) The boundary proceeds in a straight line southwesterly to the southwest corner of Section 9, Township 8 North, Range 10 West. (Guerneville map)

(21) The boundary proceeds in a straight line southwesterly to the point in, Section 24, Township 8 North, Range 11 West, at which Hulbert Creek

crosses the 160 ft. contour line. (Cazadero map)

(22) The boundary follows Hulbert Creek southerly to its confluence with the Russian River.

(23) The boundary follows the Russian River southwesterly to its confluence with Austin Creek.

(24) From this point, the boundary proceeds in a straight line northwesterly to the peak of Pole Mountain.

(25) From the peak of Pole Mountain, the boundary proceeds in a straight line northwesterly to the peak of Big Oat Mountain.

(26) From the peak of Big Oat Mountain, the boundary proceeds in a straight line northwesterly to the peak of Oak Mountain.

(27) From the peak of Oak Mountain, the boundary proceeds in a straight line northwesterly approximately 14.5 miles to the Sonoma County-Mendocino County line at the northeast corner of Section 25, Township 11 North, Range 14 West.

(28) The boundary follows the Sonoma County-Mendocino County line west, then southwesterly to the beginning point.

[T.D. ATF–253, 52 FR 22304, June 11, 1987]

### § 9.117 Stags Leap District.

(a) *Name.* The name of the viticultural area described in this section is ''Stags Leap District.''

(b) *Approved map.* The appropriate map for determining the boundaries of the Stags Leap District viticultural area is one U.S.G.S. topographic map in the 7.5 minute series, scaled 1:24000, titled ''Yountville, Calif.,'' 1951 (photorevised 1968).

(c) *Boundaries.* The Stags Leap District viticultural area is located in Napa County, California, within the Napa Valley viticultural area. The boundaries are as follows:

(1) Commencing at the intersection of the intermittent stream (drainage creek) with the Silverado Trail at the 60 foot contour line in T6N/R4W, approximately 7 miles north of the city of Napa.

(2) Then southwest in a straight line, approximately 900 feet, to the main channel of the Napa River.

(3) Then following the main branch of the Napa River (not the southern branch by the levee) in a northwesterly then northerly direction, until it intersects the medium-duty road (Grant Bdy) in T7N/R4W, known locally as the Yountville Cross Road.

(4) Then northeast along the Yountville Cross Road until it intersects the medium-duty road, the Silverado Trail.

(5) Then north along the Silverado Trail approximately 590 feet to a gully entering the Silverado Trail from the east.

(6) Then northeast along the center line of that gully, approximately 800 feet, until it intersects the 400 foor contour line in Section 30 of T7N/R4W.

(7) Then in a generally southeast direction, following the 400 foot contour line through Sections 29, 32, 33, 4, and 3, until it intersects the intermittent stream in the southwest corner of Section 3 in T6N/R4W.

(8) Then in a generally southwest direction along that intermittent stream to the beginning point, at the intersection with the Silverado Trail.

[T.D. ATF–281, 54 FR 4018, Jan. 27, 1989]

### § 9.118 Ben Lomond Mountain.

(a) *Name.* The name of the viticultural area described in this section is ''Ben Lomond Mountain.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Ben Lomond Mountain viticultural area are four 7.5 minute series U.S.G.S. maps. They are titled:

(1) Davenport Quadrangle (1955, photorevised 1968);

(2) Big Basin Quadrangle (1955, photorevised 1973);

(3) Felton Quadrangle (1955, photorevised 1980); and

(4) Santa Cruz Quadrangle (1954, photorevised 1981).

(c) *Boundaries.* The Ben Lomond Mountain viticultural area is located entirely within Santa Cruz County, California, which is in the central part of the State near the coast. The beginning point is the intersection of sections 25, 26, 35 and 36 (Davenport Quadrangle, T. 10S., R. 3W.) which coincides with the 800-foot contour line and is approximately .6 mile northwest of the top of Bald Mountain.

(1) From the beginning point, the boundary follows the 800-foot contour

line in a meandering manner in a generally northwesterly direction across section 26 into section 27 (T. 10S., R. 3W.).

(2) Thence along the 800-foot contour line in an easterly and then generally a northeasterly direction through section 27 and then back across the northwest corner of section 26 and thence in a generally northwesterly direction along the 800-foot contour line across sections 23, 22 and into section 15.

(3) Thence along the 800-foot contour line in a northerly and then a southerly direction across section 22 and eventually in a generally northwesterly direction into section 20.

(4) Thence continuing along the 800-foot contour line in a generally northwesterly direction through sections 20, 17, 16, 17, 16, 9, 8, 5, 8, 7 and 6 (T. 10S., R. 3W.).

(5) Thence continuing in a northerly direction across sections 5 and 32 and thence in a southwesterly direction across sections 31 and 6.

(6) Thence continuing in a generally northerly direction across sections 1, 6, 31, 36, 31, 36 and 30 (T. 9S., R. 3W.) to the intersection of the 800-foot contour line and Scott Creek in section 19 (T. 9S., R. 3W.).

(7) Thence in a northeasterly direction along the south bank of Scott Creek through sections 19, 20 and 17 to the intersection of Scott Creek with the 1600-foot contour line in section 16 (T. 9S., R. 3W.).

(8) Thence in a generally northeasterly and then southerly direction along the 1600-foot contour line through section 16 and then through the southeast and southwest corners of sections 9 and 10 respectively to the intersection of the 1600-foot contour line with Jamison Creek in section 16 (T. 9S., R. 3W.).

(9) Thence in an easterly direction along the south bank of Jamison Creek across sections 15 and 14 (T. 9S., R. 3W.) to the intersection of Jamison Creek and the 800-foot contour line in the southeast corner of section 14 (T. 9S., R. 3W.).

(10) Thence in a southeasterly direction in a meandering manner along the 800-foot contour line across sections 14, 23, 24, 25 (T. 9S., R. 3W.), sections 30 and 31 (T. 9S., R. 2W.), and sections 32, 5, 8, 9, 16, 17 and 21 (T. 10S., R. 2W.).

(11) Thence in a southwesterly, then generally a southeasterly and then a northwesterly direction along the 800-foot contour line in a meandering manner to section 31 and then continuing on through sections 31 and 30 (T. 10S., R. 2W.).

(12) Thence continuing along the 800-foot contour line in a generally southerly and then a generally northwesterly direction through sections 25, 36, 31 and 36 to the point of beginning at the intersection of sections 25, 26, 35 and 36 (T. 10S., R. 3W.).

[T.D. ATF–264, 52 FR 46591, Dec. 9, 1987]

### §9.119 Middle Rio Grande Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Middle Rio Grande Valley.''

(b) *Approved maps.* The approved maps for determining the boundaries of the ''Middle Rio Grande Valley'' viticultural area are 24 U.S.G.S. Quadrangle (7.5 Minute Series) maps and 1 (15 Minute Series) U.S.G.S. map. They are titled:

(1) Abeytas, N. Mex. (1952), revised 1979.

(2) Alameda, N. Mex. (1960), revised 1967 and 1972.

(3) Alburquerque East, N. Mex. (1960), revised 1967 and 1972.

(4) Albuquerque West, N. Mex. (1960), revised 1967 and 1972.

(5) Belen, N. Mex. (1952), revised 1971.

(6) Bernalillo, N. Mex. (1954), revised 1972.

(7) Dalies, N. Mex. (1952), revised 1971.

(8) Isleta, N. Mex. (1952), revised 1967 and 1974.

(9) La Joya, N. Mex. (1952), revised 1971.

(10) Lemitar, N. Mex. (1952), revised 1971.

(11) Loma De Las Canas, N. Mex. (1959), revised 1979.

(12) Loma Machete, N. Mex. (1954), revised 1972.

(13) Los Griegos, N. Mex. (1960), revised 1967 and 1972.

(14) Los Lunas, N. Mex. (1952), revised 1971 and 1974.

(15) Mesa Del Yeso, N. Mex. (1959).

(16) Placitas, N. Mex. (1954).

(17) San Acacia, N. Mex. (1952), revised 1971.

(18) San Antonio, N. Mex. (1948)—15 minute series.

(19) San Felipe Pueblo, N. Mex. (1954), revised 1978.

(20) Santa Ana Pueblo, N. Mex. (1954), revised 1978.

(21) Socorro, N. Mex. (1959), revised 1971.

(22) Tome, N. Mex. (1952), revised 1979.

(23) Turn, N. Mex. (1952), revised 1979.

(24) Veguita, N. Mex. (1952), revised 1979.

(25) Wind Mesa, N. Mex. (1952), revised 1967.

(c) *Boundary description.* The boundary of the proposed Middle Rio Grande Valley viticultural area is as follows:

(1) The beginning point is at the transmission line tower in the middle of Section 34, T14N, R4E of the Santa Ana Pueblo, N. Mex. U.S.G.S. map;

(2) The boundary follows the power transmission line east for 2.5 miles until it converges with New Mexico State Route 25/Interstate 85 (now known as Interstate 25) at Sec. 1, T13N, R4E on the San Felipe Pueblo, M. Mex. U.S.G.S. map;

(3) It follows I–25 southwest for 1.2 miles until it arrives at an unimproved dirt road approx. .2 mile east of Algodones Cemetery, at Sec. 11, T13N, R4E on the Placitas, N. Mex. U.S.G.S. map;

(4) The boundary follows the unimproved dirt road southeast for 5.5 miles until it meets another unimproved dirt road at Tecolote, NM, south of Sec. 27 and 28, T13N, R5E;

(5) It travels southwest on the unimproved dirt road .7 mile until it meets NM–44 approx. 100 feet northwest of BM 6,075 in Placitas, NM, at T13N, R5E;

(6) It then goes southeast on NM–44 for approx. 250 feet until it intersects the 6,100 foot elevation contour line approx. 250 feet southeast of BM 6,075, at T13N, R5E;

(7) It then travels west for 3.5 miles on the 6,100 feet elevation contour line until it reaches a light-duty road on the Huertas Grant/Cibola National Forest Boundary at Sec. 6, T12N, R5E;

(8) The boundary runs north to northwest on the light-duty road for approx. .9 mile until it meets NM–44 next to BM 5,875 in Sec. 31, T13N, R5E;

(9) It travels west 5.2 miles on NM–44 until it arrives at I–25 (southbound interchange) near the Bernalillo Cemetery at T13N, R4E on the Bernalillo, N. Mex. U.S.G.S. map;

(10) It proceeds south on I–25 for approx. 8.6 miles until it intersects with NM–556 at the east bound interchange at Sec. 1, T11N, R3E on the Alameda, N. Mex. U.S.G.S. map;

(11) The boundary goes east approx. 5 miles on NM–556 until it intersects the 106°30′ longitude meridian, T11N, R4E;

(12) Then it goes south on the 106°30′ longitude meridian for approx. 4.5 miles until it arrives at Montgomery Blvd. at Sec. 34, T10/11N, R4E;

(13) The boundary travels west on Montgomery Blvd. for approx. 6.1 miles until it meets the south exit ramp of 1–25 in Sec. 34, T11N, R3E;

(14) Then it travels south on I–25 for approx. 13.3 miles (through Albuquerque, NM) until it intersects with NM–47 at Sec. 6, T8N, R3E on the Isleta, N. Mex. U.S.G.S. map;

(15) It heads south on NM–47 for approx. 3.2 miles until it converges with the 4,900 foot elevation contour line at Isleta Pueblo, NM, in Sec. 24, T8N, R2E;

(16) The boundary follows the 4,900 foot elevation contour line south for approx. 25 miles until it arrives at a point north on Madron, NM, at the Atchison, Topeka and Santa Fe Railroad (AT&SF RR) tracks, approx. 250 feet east of elevation mark 4,889 feet on the Turn, N. Mex. U.S.G.S. map;

(17) It then travels north on the AT&SF RR tracks for approx. 350 feet until it intersects NM–47 approx. 350 feet north of elevation mark 4,889 feet;

(18) The boundary goes southwest on NM–47 (through Turn, N.M.) for approx. 2.4 miles until it reaches the 106°45′ longitude meridian between the Turn, N. Mex. & Vequita, N. Mex. U.S.G.S. maps;

(19) Then it travels south on the 106°45′ longitude meridian for approx. 4.7 miles until it meets the 34°30′ latitude parallel on the Veguita, N. Mex. U.S.G.S. map;

(20) It then proceeds west on the 34°30′ latitude parallel for approx. 1 mile until it arrives at NM-47 approx. .75 mile south of San Juan Church;

(21) Then it moves south on NM-47 for approx. 13.2 miles until it reaches an improved light-duty road at La Joya, NM, approx. 500 feet west of La Joya

Cemetery on the La Joya, N. Mex. U.S.G.S. map;

(22) It then travels south on the improved light-duty road for approx. 450 feet until it intersects another improved light-duty road;

(23) Then it goes 500 feet west on the improved light-duty road until it reaches a north-south unimproved road at a point approx. .9 mile east of the AT&SF RR tracks;

(24) The boundary heads south on the unimproved road for approx. 7.9 miles until it reaches the 34°15′ latitude parallel on the La Joya, N. Mex. U.S.G.S. map;

(25) It travels west on the 34°15′ latitude parallel for approx. .9 mile until it intersects the 106°52′30′ longitude meridian on the Mesa Del Yeso, N. Mex. U.S.G.S. map;

(26) It then goes south on the 106°52′30″ longitude meridian for approx. 3.3 miles until it intersects the south section line of Sec. 19, T1S, R1E;

(27) It then runs east for approx. 1.25 miles until it reaches the east section line (marked altitude 5,058 feet) of Sec. 20, T1S, R1E;

(28) It travels south on the section line for approx. 7.1 miles, until it meets the Grant Boundary at altitude mark 4,734 feet at Sec. 32/33, T2S, R1E on the Loma De Las Canas, N. Mex. U.S.G.S. map;

(29) It proceeds east on the Grant Boundary for .25 mile until it arrives at the section line (Grant Boundary at Sec. 32/33, T2S, R1E;

(30) The boundary moves south on the Grant Boundary for approx. 5.2 miles until it meets the (Grant Boundary) section line near altitude spot 4,702 feet at Sec. 28/29, T3S, R1E;

(31) The boundary goes west on the section line (Grant Boundary) for approx. .25 mile until it arrives at the section line at Sec. 28/29, T3S, R1E;

(32) Then it moves south on the section line for approx. 5.7 miles until it meets an unimproved dirt road at Bosquecito, N.M. on the west section line of Sec. 9, T4S, R1E on the San Antonio, N. Mex. (15 minute series) U.S.G.S. map;

(33) It heads south on the unimproved dirt road for approx. 2 miles until it changes to a light-duty road at Padilla Ranch in Sec. 21, T4S, R1E;

(34) It follows the light-duty road for 2.25 miles until it intersects US-380/85, in Sec. 33, T4S, R1E;

(35) Then it follows US-380/85, first west then it loops north for approx. 8 miles until it meets the 34°00′ latitude parallel;

(36) The boundary moves west on the 34°00′ latitude parallel of the Socorro, N. Mex. U.S.G.S. map for approx. .75 mile until it meets the 4,800 foot elevation contour line in Sec. 35;

(37) It meanders north on the 4,800 foot elevation contour line for approx. 9 miles until it meets the 34°07′30″ latitude parallel;

(38) It travels east for approx. .2 mile on the 34°07′30″ latitude parallel until it meets I-25 (US-60/85);

(39) It goes north on I-25 (US-60/85) for approx 27.8 miles until it meets the Belen Highline Canal levee approx. 1.6 mile south of San Antonio Church on the Veguita, N. Mex. U.S.G.S. map;

(40) Then the boundary follows the Belen Highline Canal north for approx. 9.4 miles until it intersects I-25, approx. .5 mile west of Bacaville, NM, on the Belen, N. Mex. U.S.G.S. map;

(41) Then it travels north on I-25 for approx. 16 miles until it meets the 34°52′30″ latitude parallel on the Isleta, N. Mex. U.S.G.S. map;

(42) The boundary goes west on the 34°52 30″ latitude parallel for approx. 1 mile until it arrives at the 106°45′ longitude meridian;

(43) Then it moves north on the 106°45′ longitude meridian for approx. 16.5 miles until it reaches the 35°07′30″ longitude meridian on the Albuquerque West, N. Mex. U.S.G.S. map;

(44) At this point it heads east for approx. 1.2 miles along the 35°07′ 30″ latitude parallel until it reaches the power transmission line towers at Sec. 3/4, T10N, R2E of the Los Griegos, N. Mex. U.S.G.S. map; and finally

(45) From there it follows the power transmission line towers (and for 1 mile along a connecting unimproved road) north and northeast for a total of approx. 24.4 miles to the point of beginning at Sec. 34, T14N, R4E, of the Santa Ana Pueblo, N. Mex. U.S.G.S. map.

[T.D. ATF–266, 52 FR 2836, Feb. 2, 1988]

**§ 9.120 Sierra Foothills.**

(a) *Name.* The name of the viticultural area described in this section is ''Sierra Foothills.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Sierra Foothills viticultural area are four U.S.G.S. topographical maps of the 1:250,000 scale:

(1) ''Chico'' (NJ 10–3), edition of 1958, revised 1970.

(2) ''Sacramento'' (NJ 10–6), edition of 1957 revised 1970.

(3) ''San Jose'' (NJ 10–9), edition of 1962, revised 1969.

(4) ''Mariposa'' (NJ 11–7), edition of 1957, revised 1970.

(c) *Boundary.* The Sierra Foothills viticultural area is located in portions of the counties of Yuba, Nevada, Placer, El Dorado, Amador, Calaveras, Tuolumne and Mariposa, in the State of California. The boundary is as follows:

(1) Beginning on the ''Chico'' map at the point of intersection of the north border of T(ownship) 18 N(orth), R(ange) 6 E(ast), with S. Honcut Creek the boundary proceeds approximately 3.5 miles, in a generally south and southwesterly direction, along the eastern bank of S. Honcut Creek to the point where S. Honcut Creek meets the western border of T. 18 N., R. 6 E.;

(2) Then south, approximately 15 miles, along the western borders of T. 18 N., T. 17 N., and T. 16 N. in R. 6 E., to the point where the western border of T. 16 N., R. 6 E. meets the northernmost perimeter of Beale Air Force Base in the southwestern corner of T. 16 N., R. 6 E.;

(3) Then east, south and west along the perimeter of Beale Air Force Base to the point where the perimeter of Beale Air Force Base intersects the western border of R. 7 E. in T. 14 N.;

(4) Then south, approximately 24 miles, along the western borders of T. 14 N., T. 13 N., T. 12 N., and T. 11 N. in R. 7 E., to the southwestern corner of T. 11 N., R. 7 E. (see ''Sacramento'' map);

(5) Then east, approximately six miles, along the south border of T. 11 N., R. 7 E., to the southeastern corner of T. 11 N., R. 7 E.;

(6) Then in a south southeasterly direction, in a straight line, approximately three miles, to the northeasternmost corner of Sacramento County in T. 10 N., R. 8 E.;

(7) Then continuing in a south southeasterly direction, in a straight line, along the Sacramento County—El Dorado County line, approximately 15 miles, to the point where the county line meets the Cosumnes River in the southwestern corner of T. 8 N., R. 9 E.;

(8) Then south, in a straight line, approximately 14.1 miles, along the Sacramento County—Amador County line, to the point where the county line meets Dry Creek in the northwestern corner of T. 5 N., R. 9 E.;

(9) Then in a south southeasterly direction, in a stright line, approximately 5.4 miles. along the San Joaquin County—Amador County line, to the point where the Mokelumne River forms the Amador County—Calaveras County line in T. 4 N., R. 9 E.;

(10) Then continuing in a south southeasterly direction, in a straight line, approximately 10.4 miles, along the San Joaquin County-Calaveras County line, to the point where the power line meets the western border of T. 3 N., R. 10 E.;

(11) Then in a southeasterly direction, in a straight line, approximately 22.4 miles, along the Calaveras County-Stanislaus County line to the point where the county line meets the Stanislaus River in T. 1 S., R. 12 E. (see ''San Jose'' map);

(12) Then in a southeasterly direction, in a straight line, approximately 20 miles, along the Tuolumne County-Stanislaus County line to the point where the county lines of Tuolumne, Mariposa, Stanislaus and Merced counties meet in the southeast corner of T. 3 S., R. 14 E.;

(13) Then continuing along the Mariposa County-Merced County line in a generally southeasterly direction, approximately 37 miles, to the point where the county lines of Mariposa, Merced and Madera counties meet in the northwestern corner of T. 9 S, R. 18 E.;

(14) Then northeasterly in a straight line, approximately 23 miles, along the Mariposa County-Merced County line to the point, approximately one mile west of Miami Mountain, where the Mariposa County-Merced County line

meets the western border of the boundary of the Sierra National Forest in T. 6S, R. 20 E. (see ''Mariposa'' map);

(15) Then in a generally northerly and westerly direction, along the western borders of the Sierra and Stanislaus National Forests in Mariposa County (see ''San Jose'' map);

(16) Then in a generally northerly and westerly direction, along the western border of the Stanislaus National Forest in Tuolumne County (see ''Sacramento'' map);

(17) Then in a generally northerly and westerly direction, along the western border of the Stanislaus National Forest in Calaveras and Amador counties;

(18) Then in a generally northerly and westerly direction, along the western border of the El Dorado National Forest in Amador, El Dorado and Placer counties (see ''Chico'' map);

(19) Then in a generally northerly and westerly direction, along the western border of the Tahoe National Forest in Placer, Nevada and Yuba counties to the point south of Ruef Hill where the western border of the Tahoe National Forest intersects the northeast corner of T. 18 N., R. 6 E.;

(20) Then west, approximately five miles, along the north border of T. 18 N., R. 6 E., to the point of beginning.

[T.D. ATF–261, 52 FR 44105, Nov. 18, 1987]

### §9.121 Warren Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Warren Hills.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Warren Hills viticultural area are thirteen U.S.G.S. maps of the 7.5 minute series. They are titled:

(1) Riegelsville Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).

(2) Bloomsbury Quadrangle, New Jersey, 1955 (photorevised 1970).

(3) High Bridge Quadrangle, New Jersey, 1954 (photorevised 1970).

(4) Washington Quadrangle, New Jersey, 1954 (photorevised 1971).

(5) Hackettstown Quadrangle, New Jersey, 1953 (photorevised 1971, photoinspected 1976).

(6) Tranquility Quadrangle, New Jersey, 1954 (photorevised 1971).

(7) Newton West Quadrangle, New Jersey, 1954 (photorevised 1971).

(8) Flatbrookville Quadrangle, New Jersey—Pennsylvania, 1954 (photorevised 1971).

(9) Blairstown Quadrangle, New Jersey—Warren Co., 1954 (photorevised 1971).

(10) Portland Quadrangle, Pennsylvania—New Jersey, 1955 (photorevised 1984).

(11) Belvidere Quadrangle, New Jersey—Pennsylvania, 1955 (photorevised 1984).

(12) Bangor Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).

(13) Easton Quadrangle, New Jersey—Pennsylvania, 1956 (photorevised 1968 and 1973).

(c) *Boundary*—(1) *General.* The Warren Hills viticultural area is located in Warren County, New Jersey. The beginning point of the following boundary description is the junction of the Delaware River and the Musconetcong River, at the southern tip of Warren County (on the Riegelsville map).

(2) *Boundary Description.* (i) From the beginning point, the boundary goes northeastward along the Musconetcong River about 32 miles (on the Riegelsville, Bloomsbury, High Bridge, Washington, Hackettstown, and Tranquaility maps) to the point where it intersects the Warren County-Sessex County line;

(ii) Then northwestward along that county line for about 10 miles (on the Tranquility, Newton West, and Flatbrookville maps) to Paulins Kill;

(iii) Then generally southwestward along Paulins Kill (on the Flatbrookville, Blairstown and Portland maps) to the Delaware River;

(iv) Then generally south-southwestward along the Delaware River (on the Portland, Belvidere, Bangor, Easton, and Reigelsville maps) to the beginning point.

[T.D. ATF–276, 53 FR 29676, Aug. 8, 1988]

### § 9.122 Western Connecticut Highlands.

(a) *Name.* The name of the viticultural area described in this section is ''Western Connecticut Highlands.''

(b) *Approved map.* The approved map for determining the boundaries of the ''Western Connecticut Highlands'' viticultural area is 1 U.S.G.S. 1:125,000 series map. It is titled State of Connecticut, Compiled in 1965, Edition of 1966.

(c) *Boundary description.* The boundaries of the proposed Western Connecticut Highlands viticultural area are as follows:

(1) The beginning point is where Connecticut Route #15 (Merritt Parkway) meets the Connecticut-New York State line near Glenville, CT, in the Town of Greenwich.

(2) The boundary goes approximately 80 miles northerly along the Connecticut-New York State line to the northwest corner of Connecticut at the Town of Salisbury (Connecticut-New York-Massachusetts State line);

(3) The boundary proceeds approximately 32 miles east along the Connecticut-Massachusetts State line to the northeast border of the Town of Hartland;

(4) The boundary runs approximately 5 miles south along the eastern boundary of the Town of Hartland to the northeast corner of the Town of Barkhamstead (Litchfield-Hartford County line);

(5) The boundary then goes south approximately 25 miles along the Litchfield-Hartford County line to the southeast corner of the Town of Plymouth (Litchfield-Hartford-New Haven County line);

(6) The boundary then travels approximately 7 miles west along the Litchfield-New Haven County line to Connecticut Route #8 at Waterville in the Town of Waterbury;

(7) The boundary proceeds approximately 25 miles south along Connecticut Route #8 to the intersection of Connecticut Route 15 (Merritt Parkway) near Nichols in the Town of Trumbull;

(8) The boundary travels approximately 32 miles west along Connecticut Route 15 (Merritt Parkway) to the beginning point.

[T.D. ATF–267, 53 FR 3747, Feb. 9, 1988]

### § 9.123 Mt. Veeder.

(a) *Name.* The name of the viticultural area described in this section is ''Mt. Veeder.''

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the ''Mt. Veeder'' viticultural area are three U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Napa, California (1951 (Photorevised (1980))

(2) Rutherford, California (1951 (Photorevised (1968))

(3) Sonoma, California (1951 (Photorevised (1980))

(c) *Boundaries.* (1) Beginning at unnamed peak, elevation 1,820, on the common boundary between Napa County and Sonoma County in section 23, Township 7 North, Range 6 West, Mount Diablo Base and Meridian on the Rutherford, Calif. U.S.G.S. map;

(2) Thence south along common boundary between Napa County and Sonoma County to unnamed peak, elevation 1,135 feet on the Sonoma, Calif. U.S.G.S. map;

(3) Thence continuing south along the ridge line approximately ½ mile to unnamed peak, elevation 948 feet;

(4) Thence due east in a straight line approximately 2/10 mile to the 400 foot contour;

(5) Thence following the 400 foot contour line north around Carneros Valley and then to the west of Congress Valley and Browns Valley on the Napa, Calif. U.S.G.S. map;

(6) Thence paralleling Redwood Road to its intersection with the line dividing Range 5 West and Range 4 West, east of the unnamed 837 foot peak;

(7) Thence north along the line dividing Range 5 West and Range 4 West approximately 4/10 mile to the 400 foot contour;

(8) Thence briefly southeast, then northwest along the 400 foot contour to the point where that contour intersects the northern border of Section 10, Township 6 North, Range 5 West immediately adjacent to Dry Creek on the Rutherford Calif. U.S.G.S. map;

(9) Thence northwesterly along Dry Creek through Sections 3 and 4 of

Township 6 North, Range 5 West, and Sections 32 and 31 of Township 7 North, Range 5 West, to the fork of Dry Creek near the center of Section 25 of Township 7 North, Range 6 West;

(10) Continuing along the northern fork of Dry Creek through Sections 25 and 24 of Township 7 North, Range 6 West, to the point at which the main channel of Dry Creek ends and divides into three tributaries;

(11) Thence following the middle tributary of Dry Creek through Sections 24 and 23 of Township 7 North, Range 6 West, to its source at the intersection with a trail indicated on the map;

(12) Thence following a straight line west approximately 1/10 mile to the top of unnamed peak, elevation 1,820, the beginning point.

[T.D. ATF–295, 55 FR 5844, Feb. 20, 1990, as amended by T.D. ATF–351, 58 FR 65126, Dec. 13, 1993]

### §9.124 Wild Horse Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Wild Horse Valley.''

(b) *Approved Map.* The appropriate map for determining the boundaries of the ''Wild Horse Valley'' viticultural area is one U.S.G.S. Quadrangle (7.5 Minute Series) map. It is titled Mt. George, California (1951), photorevised 1968.

(c) *Boundaries.* The boundaries of the Wild Horse Valley viticultural area (in Napa and Solano Counties) are as follows:

(1) The beginning point is on the section line boundary between Section 33, Range 3 West, Township 6 North and Section 4, Range 3 West, Township 5 North, Mount Diablo Range and Meridian, marked with an elevation of 1,731 feet, which is a northwest corner of the boundary between Napa and Solano Counties.

(2) From the beginning point, the boundary runs in a north-northeasterly direction approximately .9 mile to the summit of an unnamed hill having a marked elevation of 1,804 feet;

(3) Then northeasterly approximately .7 mile to the summit of an unnamed hill having a marked elevation of 1,824 feet;

(4) Then south-southeasterly approximately .6 mile to the summit of an unnamed hill having a marked elevation of 1,866 feet;

(5) Then south-southeasterly approximately .5 mile to the summit of an unnamed hill having a marked elevation of 2,062 feet;

(6) Then southerly approximately .7 mile to the summit of an unnamed hill having a marked elevation of 2,137 feet;

(7) Then south-southeasterly approximately .4 mile to the summit of an unnamed hill having a marked elevation of 1,894 feet;

(8) Then southerly approximately 2.3 miles to the midpoint of the section line boundary between Sections 15 and 22, Township 5 North, Range 3 West, Mount Diablo Range and Meridian;

(9) Then southwesterly approximately 1.3 miles to the summit of an unnamed hill having a marked elevation of 1,593 feet;

(10) Then west-northwesterly approximately 1.2 miles to the summit of an unnamed hill, on the Napa/Solano County boundary, having a marked elevation of 1,686 feet;

(11) Then north-northeasterly approximately 1.5 miles to the summit of an unnamed hill having a marked elevation of 1,351 feet;

(12) Then north-northeasterly approximately 1.2 miles to the summit of an unnamed hill having a marked elevation of 1,480 feet; and

(13) Then north-northwesterly approximately 1.0 miles to the point of beginning.

[T.D. ATF–278, 53 FR 48247, Nov. 30, 1988]

### §9.125 Fredericksburg in the Texas Hill Country.

(a) *Name.* The name of the viticultural area described in this section is ''Fredericksburg in the Texas Hill Country.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Fredericksburg in the Texas Hill Country viticultural area are six U.S.G.S. topographical maps of the 1:24,000 scale. They are titled:

(1) Stonewall Quadrangle (1961);

(2) Cain City Quadrangle (1963);

(3) Fredericksburg East Quadrangle (1967, photorevised 1982);

(4) Cave Creek School Quadrangle (1961);

(5) Fredericksburg West Quadrangle (1967, photorevised 1982); and

(6) Lady Bird Johnson Park Quadrangle (1964, photoinspected 1979).

(c) *Boundaries.* The Fredericksburg in the Texas Hill Country viticultural area is located entirely in Gillespie County, Texas, in the central part of the State approximately 80 miles west of Austin. The beginning point is on the Stonewall Quadrangle map near Blumenthal at a point on U.S. Route 290 approximately .1 mile east of bench mark (BM) 1504, at the junction of a light-duty road known locally as Jung Road.

(1) From the beginning point, the boundary proceeds on Jung Road in a northwesterly direction across the Pedernales River.

(2) Then northwesterly approximately 1 mile along Jung Road as it parallels the Pedernales River.

(3) Then north along Jung Road approximately 3.9 miles to a point where Jung Road meets a medium-duty road known locally as Texas Ranch Road 2721.

(4) Then westerly approximately .1 mile on Texas Ranch Road 2721 to a point where it meets a medium-duty road known locally as Texas Ranch Road 1631.

(5) Then northeasterly along Texas Ranch Road 1631 approximately 1 mile to a point where Texas Ranch Road 1631 crosses the 1,800 foot contour line.

(6) Then northwesterly in a meandering manner along the 1,800-foot contour line to the point where the 1,800-foot contour line crosses State Route 16.

(7) Then in a generally westerly direction along the 1,800-foot contour line to the point where the 1,800-foot contour line crosses State Route 965.

(8) Then in a northwesterly and then generally a southeasterly direction along the 1,800-foot contour line to a point where the 1,800-foot contour line goes just south of the Kordzik Hills approximately 1 mile due east of the city of Fredericksburg.

(9) Then continuing on the 1,800-foot contour line in a generally northwesterly, southerly, and again northwesterly direction to the point where the 1,800-foot contour line crosses Loudon Road approximately 4 miles northwest of Fredericksburg.

(10) Then continuing on the 1,800-foot contour line in a northwesterly, then generally a southeasterly, westerly and finally a southerly direction to a point where the 1,800-foot contour line crosses a light-duty road known locally as Hayden Ranch Road about 50 yards north of Texas Ranch Road 2093.

(11) Then 50 yards south on Hayden Ranch Road to Texas Ranch Road 2093 and then east on Texas Ranch Road 2093 approximately .15 mile to an unimproved, southbound, gravel and dirt county road known locally as Beverly Gold's Road.

(12) Then approximately 2.6 miles south on Beverly Gold's Road to a point where it joins Texas State Route 16.

(13) Then approximately 1.5 miles northeast on State Route 16 to a light-duty county road known locally as Bear Creek Road.

(14) Then approximately 1 mile in a southeasterly, northeasterly, and then a southerly direction along Bear Creek Road to the point where the road crosses the 1,700-foot contour line.

(15) Then in a generally easterly direction for approximately 10 miles along the 1,700-foot contour line to a point where the 1,700-foot contour line crosses Texas Ranch Road 1376.

(16) Then approximately 3.1 miles southeast along Texas Ranch Road 1376 to a light-duty road at Luckenbach known locally both as Kunz-Klien Road and Luckenbach Road.

(17) Then approximately 1.3 miles in a generally northeasterly and then an easterly direction along Luckenbach Road and continuing along Luckenbach Road in a northerly direction about 2.5 miles to the point where Luckenbach Road joins U.S. Route 290.

(18) Then west approximately .2 mile on U.S. Route 290 to the intersection with Jung Road, the point of beginning.

[T.D. ATF–279, 53 FR 51541, Dec. 22, 1988]

### § 9.126 Santa Clara Valley.

(a) Name. The name of the viticultural area described in this section is ''Santa Clara Valley.''

(b) Approved Maps. The appropriate maps for determining the boundaries of

the ''Santa Clara Valley'' viticultural area are 25 U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Calaveras Reservoir, Calif., 1961 (photorevised 1980);

(2) Castle Rock Ridge, Calif., 1955 (photorevised 1968), photoinspected 1973;

(3) Chittenden, Calif., 1955 (photorevised 1980);

(4) Cupertino, Calif., 1961 (photorevised 1980);

(5) Gilroy, Calif., 1955 (photorevised 1981);

(6) Gilroy Hot Springs, Calif., 1955 (photorevised 1971), photoinspected 1973;

(7) Lick Observatory, Calif., 1955 (photorevised 1968), photoinspected 1973;

(8) Loma Prieta, Calif., 1955 (photorevised 1968);

(9) Los Gatos, Calif., 1953 (photorevised 1980);

(10) Milpitas, Calif., 1961 (photorevised 1980);

(11) Mindego Hill, Calif., 1961 (photorevised 1980);

(12) Morgan Hill, Calif., 1955 (photorevised 1980);

(13) Mt. Madonna, Calif., 1955 (photorevised 1980);

(14) Mt. Sizer, Calif., 1955 (photorevised 1971), photoinspected 1978;

(15) Mountain View, Calif., 1961 (photorevised 1981);

(16) Newark, Calif., 1959 (photorevised 1980);

(17) Niles, Calif., 1961 (photorevised 1980);

(18) Pacheco Peak, Calif., 1955 (photorevised 1971);

(19) Palo Alto, Calif., 1961 (photorevised 1973);

(20) San Felipe, Calif., 1955 (photorevised 1971);

(21) San Jose East, Calif., 1961 (photorevised 1980);

(22) San Jose West, Calif., 1961 (photorevised 1980);

(23) Santa Teresa Hills, Calif., 1953 (photorevised 1980);

(24) Three Sisters, Calif., 1954 (photorevised 1980);

(25) Watsonville East, Calif., 1955 (photorevised 1980); and

(c) The boundaries of the proposed Santa Clara Valley viticultural area are as follows:

(1) The beginning point is at the junction of Elephant Head Creek and Pacheco Creek (approx. .75 mile southwest of the Pacheco Ranger Station) on the Pacheco Peak, Calif. U.S.G.S. map.

(2) From the beginning point the boundary moves in a northerly direction up Elephant Head Creek approx. 1.2 miles until it intersects the 600 foot elevation contour line;

(3) Then it meanders in a northwesterly direction along the 600 foot contour line approx. 55 miles until it intersects Vargas Road in the northwest portion of Sec. 25, T4S/RlW on the Niles, Calif. U.S.G.S. map;

(4) Then it travels in a northwesterly direction approx. .6 mile to the intersection of Morrison Canyon Road in the eastern portion of Sec. 23, T4S/RlW;

(5) Then it follows Morrison Canyon Road west approx. 1.5 miles to Mission Boulevard (Highway 238) at Sec. 22, T4S/RlW;

(6) Then it moves northwest on Mission Boulevard (Highway 238) approx. .6 mile to the intersection of Mowry Avenue just past the Sanatorium at Sec. 22, T4S/RlW;

(7) It then goes in a southwesterly direction on Mowry Avenue approx. 3.6 miles to the intersection of Nimitz Freeway (Highway 880) (depicted on the map as Route 17) at Sec. 5, T5S/RlW, on the Newark, Calif. U.S.G.S. map;

(8) It then moves along the Nimitz Freeway (Highway 880) in a southeasterly direction for approx. 9 miles to the intersection of Calaveras Boulevard (Highway 237) at Milpitas on the Milpitas, Calif. U.S.G.S. map;

(9) Then it follows Highway 237 in a westerly direction approx. 7.2 miles to intersection of Bay Shore Freeway (Highway 101) at Moffett Field on the Mt. View, Calif. U.S.G.S. map;

(10) Then in a northwest direction follow Bay Shore Freeway (Highway 101) for approx. 6.5 miles to the intersection of the San Francisquito Creek (Santa Clara County/San Mateo County boundary) at Palo Alto T5S/R2W, on the Palo Alto, Calif. U.S.G.S. map;

(11) Then it heads west on San Francisquito Creek (Santa Clara County/San Mateo County boundary)

approx. 7 miles until it converges with Los Trancos Creek (Santa Clara County/San Mateo County boundary) near Bench Mark 172, approx. 100 feet east of Alpine Road;

(12) It travels south approx. 4 miles along Los Trancos Creek (Santa Clara County/San Mateo County boundary) until it intersects the 600 foot elevation contour line at El Corte De Madera, approx. .5 mile north of Trancos Woods on the Mindego Hill, Calif. U.S.G.S. map;

(13) It moves along the 600 foot elevation contour line in a southeasterly direction approx. 10 miles to Regnart Road at Regnart Creek on the Cupertino, Calif. U.S.G.S. map;

(14) It goes northeast along Regnart Road, approx. .7 mile to the 400 foot elevation contour line (.3 mile southwest of Regnart School);

(15) It travels along the 400 foot elevation contour line southeast approx. 1.4 miles to the north section line of Section 36, T7S/R2W at Blue Hills, CA;

(16) The boundary goes east on the section line approx. .4 mile to Saratoga Sunnyvale Road (Highway 85);

(17) It travels south on Saratoga Sunnyvale Road (Highway 85) approx. 1 mile to the south section line of Section 36, T7/8S R2W;

(18) Then it goes west on the section line approx. .75 mile to the first intersection of the 600 foot elevation contour line;

(19) It follows the 600 foot elevation contour line southeast approx. .75 mile to Pierce Road south of Calabazas Creek;

(20) It then travels south on Pierce Road approx. .4 mile to the first intersection of the 800 foot elevation contour line;

(21) Then it runs southeast approx. 28 miles on the 800 foot elevation contour line to the east section line of Sec. 25, T10S/R2E/R3E approx. .5 mile north of Little Arthur Creek on the Mt. Madonna, Calif. U.S.G.S. map;

(22) Then it goes south on the section line approx. .5 mile to the 800 foot elevation contour line approx. .2 mile south of Little Arthur Creek;

(23) Then it goes southeast along the 800 foot elevation contour line approx. 2.7 miles to Hecker Pass Road (Highway 152) approx. 1.25 miles east of Hecker Pass on the Watsonville East, Calif. U.S.G.S. map;

(24) The boundary goes northeast on Hecker Pass Road (Highway 152) approx. .75 mile to the intersection of the 600 foot elevation contour line just west of Bodfish Creek;

(25) It travels southeast along the 600 foot elevation contour line approx. 7.3 miles to the first intersection of the western section line of Sec. 30, T11S/R3E/R4E on the Chittenden, Calif. U.S.G.S. map;

(26) Then it follows south along the section line approx. 1.9 miles to the south township line at Sec. 31, T11S/T12S, R3E/R4E;

(27) It moves in an easterly direction along the township line approx. 12.4 miles to the intersection of T11S/T12S and R5E/R6E on the Three Sisters, Calif. U.S.G.S. map;

(28) Then it goes north along R5E/R6E range line approx. 5.3 miles to Pacheco Creek on the Pacheco Creek, Calif. U.S.G.S. map;

(29) Then it moves northeast along Pacheco Creek approx. .5 mile to Elephant Head Creek at the point of beginning.

[T.D. ATF–286, 54 FR 12606, Mar. 28, 1989]

### § 9.127 Cayuga Lake.

(a) *Name.* The name of the viticultural area described in this section is ''Cayuga Lake.''

(b) *Approved maps.* The appropriate map for determining the boundaries of the Cayuga Lake viticultural area is one U.S.G.S. map scaled 1:250,000, titled ''Elmira, New York; Pennsylvania,'' 1962 (revised 1978).

(c) *Boundaries.* The Cayuga Lake viticultural area is located within the counties of Seneca, Tompkins, and Cayuga, in the State of New York, within the Finger Lakes viticultural area. The boundaries are as follows:

(1) Commencing at the intersection of State Route 90 with State Route 5 in Cayuga County, north of Cayuga Lake.

(2) Then south along State Route 90 to a point approximately one mile past the intersection of State Route 90 with State Route 326.

(3) Then south along the primary, all-weather, hard surface road, approximately ¾ mile, until it becomes State Route 90 again at Union Springs.

(4) Then south/southeast along State Route 90 until it intersects the light-duty, all-weather, hard or improved surface road, approximately 1.5 miles west of King Ferry.

(5) Then south along another light-duty, all-weather, hard or improved surface road, approximately 4 miles, until it intersects State Route 34B, just south of Lake Ridge.

(6) Then follow State Route 34B in a generally southeast direction until it intersects State Route 34, at South Lansing.

(7) Then south along State Route 34, until it meets State Route 13 in Ithaca.

(8) Then southwest along State Routes 34/13, approximately 1.5 miles, until it intersects State Route 79, in Ithaca.

(9) Then west along State Route 79, approximately ½ mile, until it intersects State Route 96.

(10) Then along State Route 96, in a generally northwest direction, until it intersects State Routes 414 and 96A in Ovid.

(11) Then north along State Routes 96/414, until they divide, approximately 2.5 miles north of Ovid.

(12) Then along State Route 414, in a generally northeast direction, until it meets U.S. Route 20 in the town of Seneca Falls.

(13) Then along U.S. Route 20, in a northeast direction, until it intersects State Routes 318, 89, and 5.

(14) Then along U.S. Route 20/State Route 5, in a northeast direction, to the beginning point, at the intersection with State Route 90.

[T.D. ATF–269, 53 FR 9769, Mar. 25, 1988]

## §9.128 Seneca Lake.

(a) *Name.* The name of the viticultural area described in this section is ''Seneca Lake''.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Seneca Lake viticultural area are 13 United States Geological Survey (USGS) topographic maps (Scale: 1:24,000). The maps are titled:

(1) Burdett Quadrangle (New York—Schuyler Co. 1950 (photoinspected 1976));

(2) Montour Falls Quadrangle (New York 1978 (photorevised 1976));

(3) Beaver Dams Quadrangle (New York 1953);

(4) Reading Center Quadrangle (New York 1950 (photorevised 1978));

(5) Dundee Quadrangle (New York 1942 (photoinspected 1976));

(6) Dresden Quadrangle (New York 1943 (photorevised 1978));

(7) Penn Yan Quadrangle (New York—Yates Co. 1942 (photoinspected 1976));

(8) Stanley Quadrangle (New York 1952);

(9) Phelps Quadrangle (New York—Ontario Co. 1953);

(10) Geneva North Quadrangle (New York 1953 (photorevised 1976));

(11) Geneva South Quadrangle (New York 1953 (photorevised 1978));

(12) Ovid Quadrangle (New York—Seneca Co. 1970); and

(13) Lodi Quadrangle (New York 1942).

(c) *Boundaries.* The Seneca Lake viticultural area surrounds Seneca Lake in upstate New York and is located in portions of Schuyler, Yates, Ontario, and Seneca counties. The boundaries are as follows:

(1) Beginning in the town of Watkins Glen at the State Route 414 bridge over the New York State Barge Canal, follow the Canal south approximately 0.2 miles to the mouth of Glen Creek, on the Burdette, N.Y. map;

(2) Follow Glen Creek upstream (west), crossing onto the Montour Falls, N.Y. map and continuing to the road locally known as the Van Zandt Hollow Road on the Beaver Dams, N.Y. map;

(3) Proceed north on Van Zandt Hollow Road to Cross Road;

(4) Continue north on Cross Road, which changes to Cretsley Road, to its intersection with Mud Lake Road (County Road 23) on the Reading Center, N.Y. map;

(5) Proceed west approximately 0.7 miles on County Road 23 to its intersection with Pre-emption Road;

(6) Then continue north on Pre-emption Road along the Dundee, N.Y., Penn Yan, N.Y. and Dresden, N.Y. maps, for approximately 18 miles to its junction with an unnamed light duty road just east of Keuka Lake Outlet on the Penn Yan, N.Y. map;

(7) Follow the unnamed light duty road across the Keuka Outlet, traveling approximately 0.3 miles to its junction in Seneca Mills with an unnamed light duty road, known locally as Outlet Road;

(8) Follow Outlet Road west along the north bank of the Keuka Outlet approximately 0.6 miles, until the road forks;

(9) At the fork, continue north approximately 1 mile, on an unnamed light duty road know locally as Stiles Road, to its junction with Pre-emption Road.

(10) Then proceed north 14.6 miles on Pre-emption Road across the Stanley, N.Y. map, to an unnamed medium duty road, known locally as County Road 4, on the Phelps, N.Y. map;

(11) Continue west approximately 4.5 miles on County Road 4 to its intersection with Orleans Road in Seneca Castle;

(12) Then proceed north on Orleans Road, which becomes Seneca Castle Road, for 2.1 miles, to Warner Corners where the name of the road changes to Wheat Road;

(13) Continue north from Warner Corners on Wheat Road approximately 1.9 miles to its intersection with State Route 88;

(14) Continue north on State Route 88 approximately 1.4 miles, to its intersection with State Route 96 at Knickerbocker Corner;

(15) Continue east on State Route 96 approximately 10.4 miles, to the intersection with Brewer Road on the Geneva North, N.Y. map;

(16) Follow Brewer Road south approximately 1.8 miles to the intersection with U.S. Route 20/State Route 5;

(17) At the intersection of Brewer Road and U.S. Route 20/State Route 5, continue south approximately 0.1 miles, following an imaginary line to the south bank of the Seneca River;

(18) Follow the south bank of the Seneca River east approximately 0.1 miles to the mouth of the Kendig Creek;

(19) Continue south following the Kendig Creek approximately 3.3 miles to the Creek's intersection with Yellow Tavern Road on the Geneva South, N.Y. map;

(20) Follow Yellow Tavern Road west approximately 0.1 miles, to its intersection with Post Road;

(21) Follow Post Road south approximately 1.4 miles to its junction with State Route 96A;

(22) Then follow State Route 96A south 17.5 miles across the Dresden, N.Y., Ovid, N.Y., and Lodi, N.Y. maps to the village of Lodi;

(23) In Lodi, continue south where State Route 96A changes to S. Main Street and then changes to an unnamed medium duty road (known locally as Center Road-Country Road 137);

(24) Continue south on Center Road-Country Road 137 for approximately 4.9 miles to the Seneca/Schuyler County Line;

(25) Then proceed west 0.5 miles on the county line to Logan Road;

(26) Then proceed 8.6 miles south on Logan Road to State Route 227 (identified by the petitioner as State Route 79) on the Burdette, N.Y. map;

(27) Then proceed approximately 800 feet east on Route 227 to Skyline Drive;

(28) Then proceed south on Skyline Drive for 2.5 miles to an unnamed stream;

(29) Follow the unnamed stream west approximately 0.6 miles to its intersection with State Route 414; and

(30) Continue west on State Route 414 approximately 0.5 miles to the beginning point on the bridge over the New York State Barge Canal.

[TTB T.D.–3, 68 FR 39835, July 3, 2003]

### § 9.129 Arroyo Grande Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Arroyo Grande Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of Arroyo Grande Valley viticultural area are four U.S.G.S. topographical maps of the 1:24,000 scale:

(1) ''Arroyo Grande, NE, California,'' edition of 1965, photorevised 1978.

(2) ''Tar Spring Ridge, California,'' edition of 1967.

(3) ''Nipomo, California,'' edition of 1965.

(4) ''Oceano, California,'' edition of 1965, photorevised 1979.

(c) *Boundary:* The Arroyo Grande Valley viticultural area is located in

San Luis Obispo County in the State of California. The boundary is as follows:

(1) Beginning on the ''Arroyo Grande'' map at the point of intersection of State Route 227 and Corbit Canyon Road in Arroyo Grande Township, the boundary proceeds approximately 0.1 mile, in a northwesterly direction, along the roadway of State Route 227 to the point where State Route 227 intersects with Printz Road in Poorman Canyon in the Santa Manuela land grant;

(2) Then northwesterly, approximately 1.5 miles, along Printz Road to its intersection with Noyes Road in the Santa Manuela land grant;

(3) Then northerly, approximately 1.5 miles, along Noyes Road to its intersection with State Route 227 (at vertical control station ''BM 452'') in the Santa Manuela land grant;

(4) Then in a northeasterly direction in a straight line approximately 1.4 miles to the intersection of Corbit Canyon Road with an unnamed, unimproved road at Verde in the Santa Manuela land grant;

(5) Then approximately 1.9 miles in a generally northeasterly direction, along the meanders of said unimproved road to its easternmost point, prior to the road turning back in a northwesterly direction to its eventual intersection with Biddle Ranch Road;

(6) Then in a northwesterly direction approximately 1.13 miles in a straight line to the summit of an unnamed peak identified as having an elevation of 626 feet in the Santa Manuela land grant;

(7) Then easterly, approximately 0.46 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 635 feet, in the Santa Manuela land grant;

(8) Then east northeasterly, approximately 0.27 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 799 feet, in the Santa Manuela land grant;

(9) Then easterly, approximately 0.78 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 952 feet, in the Santa Manuela land grant;

(10) Then easterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,188 feet, in the southwest corner of section 29, T. 31 S., R. 14 E.;

(11) Then east southeasterly, approximately 0.9 mile in a straight line, to the point at which Upper Arroyo Grande Road crosses the spillway of Lopez Dam in section 32, T. 31 S., R. 14 E. (see ''Tar Spring Ridge'' map);

(12) Then, in a generally easterly direction, approximately 3.64 miles along Upper Arroyo Grande Road (under construction) to the point where the broken red line for the proposed location of said road diverges in a northerly direction from the light duty roadbed of said road in the Arroyo Grande land grant (north of section 35, T. 31 S., R. 14 E.);

(13) Then, in a generally northerly direction, approximately 2.5 miles, along the broken red line for the proposed location of Upper Arroyo Grande Road to its point of intersection with an unnamed unimproved road (this intersection being 1.2 miles northwest of Ranchita Ranch) in the Arroyo Grande land grant;

(14) From the point of intersection of the proposed location of Upper Arroyo Grande Road and the unnamed unimproved road, the boundary proceeds in a straight line, east northeasterly, approximately 1.8 miles, to the summit of an unnamed peak identified as having an elevation of 1,182 feet, in the northwest corner of section 19, T. 31 S., R. 15 E.;

(15) Then southeasterly, approximately 1.8 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,022 feet, in the northeast corner of section 29, T. 31 S., R. 15 E.;

(16) Then west southwesterly, approximately 0.84 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,310 feet, in the northeast corner of section 30, T. 31 S., R. 15 E.;

(17) Then south southeasterly, approximately 1.46 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,261 feet, in section 32, T. 31 S., R. 15 E.;

(18) Then southeasterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,436 feet,

in the northwest corner of section 4, T. 32 S., R. 15 E.;

(19) Then southwesterly, approximately 1.07 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,308 feet, in the Huasna land grant;

(20) Then west northwesterly, approximately 1.50 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,070 feet, along the east border of section 1, T. 32 S., R. 14 E.;

(21) Then south southeasterly, approximately 1.38 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,251 feet, in the Hausna land grant;

(22) Then southwesterly, approximately 0.95 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,458 feet, in the Santa Manuela land grant;

(23) Then southeasterly, approximately 0.8 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,377 feet, in the Huasna land grant;

(24) Then southwesterly, approximately 1.4 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,593 feet, in the Santa Manuela land grant (See ''Nipomo'' map);

(25) Then southwesterly, approximately 1.1 miles in a straight line, to the jeep trail immediately north of the summit of an unnamed peak identified as having an elevation of 1,549 feet, just north of section 35, T. 32 S., R. 14 E.;

(26) Then north northwesterly, approximately 2.73 miles along the jeep trail on Newsom Ridge to the point of intersection of said jeep trail and an unnamed unimproved road (immediately north of section 28, T. 32 S., R. 14 E.);

(27) Then southerly, approximately 1.63 miles along said unimproved road to its intersection with Upper Los Berros No. 2 Road in section 33, T. 32 S., R. 14 E.;

(28) Then southwesterly, approximately 3.27 miles along the stream in Los Berros Canyon (of which approximately 2.0 miles are along Upper Los Berros No. 2 Road) to the point at which U.S. Highway 101 crosses said stream in section 35, T. 12 N., R. 35 W. (See ''Oceano'' map);

(29) Then across U.S. Highway 101 and continuing in a southwesterly direction approximately 0.1 mile to Los Berros Arroyo Grande Road;

(30) Then following Los Berros Arroyo Grande Road in generally a northwesterly direction approximately 4 miles until it intersects with Valley Road;

(31) Then following Valley Road in generally a northerly direction approximately 1.2 miles until it intersects with U.S. Highway 101;

(32) Then in a northwesterly direction along U.S. Highway 101 approximately .35 mile until it intersects with State Highway 227;

(33) Then in a northeasterly and then a northerly direction along State Highway 227 approximately 1.4 miles to the point of beginning.

[T.D. ATF–291, 55 FR 287, Jan. 4, 1990]

### § 9.130 San Ysidro District.

(a) *Name.* The name of the viticultural area described in this section is ''San Ysidro District.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the San Ysidro District viticultural area are four U.S.G.S. Quadrangle (7.5 minute series) maps. They are titled:

(1) Gilroy, Calif., 1955 (photorevised 1981);

(2) Chittenden, Calif., 1955 (photorevised 1980);

(3) San Felipe, Calif., 1955 (photorevised 1971);

(4) Gilroy Hot Springs, Calif., 1955 (photorevised 1971, photoinspected 1978.)

(c) *Boundary.* The San Ysidro District viticultural area is located in Santa Clara County, California, within the Santa Clara Valley viticultural area. The boundary is as follows:

(1) The beginning point is the intersection of California State Highway 152 and Ferguson Road with an un-named wash, or intermittent stream, on the Gilroy, Calif., U.S.G.S. map;

(2) From the beginning point, the boundary follows the wash northeast as it runs co-incident with the old Grant boundary for approximately 3,800 feet;

(3) The boundary then follows the wash when it diverges from the old

Grant boundary and continues approximately 2,300 feet in a northeasterly direction, crosses and recrosses Crews Road, then follows the wash southeast until the wash turns northeast in section 35, T.10S., R.4E., on the Gilroy Hot Springs, Calif., map;

(4) The boundary then diverges from the wash, continuing in a straight line in a southeasterly direction, across an unimproved road, until it intersects with the 600 foot contour line.

(5) The boundary then proceeds in a straight line at about the 600 foot elevation in a southeasterly direction until it meets the minor northerly drainage of the San Ysidro Creek;

(6) The boundary then follows the minor northerly drainage of San Ysidro Creek southeast for approximately 2,000 feet to the seasonal pond adjacent to Canada Road;

(7) From the seasonal pond, the boundary follows the southerly drainage of San Ysidro Creek for about 1,300 feet until it reaches the southwest corner of section 36, T.10S., R.4E.;

(8) The boundary then continues in a straight line in a southerly direction across Canada Road for approximately 900 feet until it intersects with the 600 foot contour line;

(9) The boundary follows the 600 foot contour line for approximately 6,000 feet in a generally southeasterly direction, diverges from the contour line and continues southeast another 1,200 feet until it meets an unimproved road near the north end of a seasonal pond on the San Felipe, Calif., U.S.G.S. map;

(10) The boundary follows the unimproved road to Bench Mark 160 at Highway 152.

(11) The boundary then follows Highway 152 in a northwesterly direction across the northeast corner of the Chittenden, Calif., U.S.G.S. map, and back to the beginning point at the junction of Ferguson Road and Highway 152.

[T.D. ATF–305, 55 FR 47749, Nov. 15, 1990]

### §9.131 Mt. Harlan.

(a) *Name.* The name of the viticultural area described in this section is ''Mt. Harlan.''

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the ''Mt. Harlan'' viticultural area are two U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Mt. Harlan, California (Photorevised (1984)).

(2) Paicines, California (Photorevised (1984)).

(c) *Boundaries.* (1) The point of beginning is the unnamed 3,063′ peak on the county line between San Benito and Monterey Counties in Township 14 S., Range 5 E., Section 34 of the ''Mt. Harlan,'' California Quadrangle map.

(2) From the point of beginning on the Mt. Harlan Quadrangle map proceed in a generally northwesterly direction along the county line through Sections 34 and 33, briefly into Section 28 and back through Section 33, and then through Sections 32, 29, and 30 all in Township 14 S., Range 5 E., to the point at which the county line intersects the line between Sections 30 and 19 of said Township and Range.

(3) Thence proceed in a straight line northeast approximately 750 feet to the commencement of the westernmost stream leading into Pescadero Creek. The stream commences in the southwest corner of Section 19 in Township 14 S., Range 5 E.

(4) Thence following the stream in a northeasterly direction to its intersection with the 1,800-foot contour line near the center of Section 19 in Township 14 S., Range 5 E.

(5) Thence following the 1,800′ contour line in a southeasterly and then northeasterly direction through Sections 19, 20, 17, 16, 15, 14, then through the area north of Section 14, then southerly through Section 13 on the Mt. Harlan Quadrangle map and continuing on the ''Paicines,'' California Quadrangle map to the point at which the 1800-foot contour line intersects the line between Sections 13 and 24 of Township 14 S., Range 5 E.

(6) Thence along the 1,800′ contour line through Section 24, back up through Section 13, and then in a southerly direction through Sections 18, 19, and 30 (all on the Paicines Quadrangle map), then westerly through Section 25 on the Paicines Quadrangle map and continuing on the Mt. Harlan Quadrangle map, and then through Section 26 to the point of intersection of said 1,800′ contour and Thompson Creek near the center of Section 26 in

Township 14 S., Range 5 E., on the Mt. Harlan Quadrangle map.

(7) Thence southwesterly along Thompson Creek to its commencement in the northwest corner of Section 34, Township 14 S., Range 5 E.

(8) Thence in a straight line to the beginning point.

[T.D. ATF–304, 55 FR 47747, Nov. 15, 1990]

### § 9.132 Rogue Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Rouge Valley.''

(b) *Approved map.* The appropriate map for determining the boundaries of the Rogue Valley viticultural area is one U.S.G.S. map titled ''Medford,'' scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Rogue Valey viticultural area is located entirely within Jackson and Josephine Counties in southwestern Oregon. The boundaries are as follows:

(1) Beginning at the point of intersection of Interstate 5 and the Josephine County/Douglas County line approximately 20 miles north of Grants Pass, the boundary proceeds southerly and southwesterly along U.S. Interstate 5 to and including the town of Wolf Creek;

(2) Then westerly and southerly out of the town of Wolf Creek along the Southern Pacific Railway Line to and including the town of Hugo;

(3) Then southwesterly along the secondary, hard surface road known as Hugo Road to the point where the Hugo Road crosses Jumpoff Joe Creek;

(4) Then westerly and down stream along Jumpoff Joe Creek to the intersection of Jumpoff Joe Creek and the Rogue River;

(5) Then northwesterly and down stream along the Rogue River to the first point where the Wild and Scenic Rogue River designated area touches the easterly boundary of the Siskiyou National Forest just south of Galice;

(6) Then in a generally southwesterly direction (with many diversions) along the easterly border of the Siskiyou National Forest to the 42 degree 0 minute latitude line;

(7) Then easterly along the 42 degree 0 minute latitude line to the point where the Siskiyou National Forest again crosses into Oregon approximately 1 mile east of U.S. Highway 199;

(8) Then in a generally northeasterly direction and then a southeasterly direction (with many diversions) along the northern boundary of the Siskiyou National Forest to the point where the Siskiyou National Forest touches the Rogue River National Forest at Big Sugarloaf Peak;

(9) Then in a generally easterly direction (with many diversions) along the northern border of the Rogue River National Forest to the point where the Rogue River National Forest intersects with Slide Creek approximately 6 miles southeast of Ashland;

(10) Then southeasterly and northeasterly along Slide Creek to the point where it intersects State Highway 273;

(11) Then northwesterly along State Highway 273 to the point where it intersects State Highway 66;

(12) Then in an easterly direction approximately 5 miles along State Highway 66 to the east line of Township 39 South, Range 2 East (T39S, R2E);

(13) Then following the east line of T39S, R2E, in a northerly direction to the northeast corner of T39S, R2E;

(14) Then westerly approximately 5 miles along the north line of T39S, R2E, to the 2,600 foot contour line;

(15) Then in a northerly direction following the 2,600 foot contour line across Walker Creek and then in a southwesterly direction to the point where the 2,600 foot contour line touches the east line of T38S, R1E;

(16) Then northerly along the east line of T38S, R1E, to the northeast corner of T38S, R1E;

(17) Then westerly along the north line of T38S, R1E, to the northwest corner of T38S, R1E;

(18) Then northerly along the west line of T37S, R1E, to the northwest corner of T37S, R1E.

(19) Then easterly along the north lines of T37S, R1E, and T37S, R2E, to the southeast corner of T36S, R2E;

(20) Then northerly along the east line of T36S, R2E, to the northeast corner of T36S, R2E;

(21) Then westerly along the north line of T36S, R2E, to the northwest corner of T36S, R2E;

(22) Then northerly along the east line of T35S, R1E, to the northeast corner of T35S, R1E;

(23) Then westerly along the north line of T35S, R1E, to the northwest corner of T35S, R1E;

(24) Then northerly along the east line of T34S, R1W, to the northeast corner of T34S, R1W;

(25) Then westerly along the north lines of T34S, R1E; T34S, R2W; T34S, R3W; T34S, R4W; and T34S, R5W, to the northwest corner of T34S, R5W;

(26) Then northerly along the west line of T33S, R5W, to the Josephine County/Douglas County line;

(27) Then westerly along the Josephine County/Douglas County line to U.S. Interstate 5, the point of beginning.

[T.D. ATF–310, 56 FR 2435, Jan. 23, 1991]

### §9.133 Rutherford.

(a) *Name.* The name of the viticultural area described in this section is ''Rutherford.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Rutherford viticultural area are two U.S.G.S. topographical maps of the 1:24,000 scale:

(1) ''Yountville Quadrangle, California,'' edition of 1951, photorevised 1968.

(2) ''Rutherford Quadrangle, California,'' edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The Rutherford viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Yountville quadrangle map at the point where the county road known as the Silverado Trail intersects Skellenger Lane, just outside the southwest corner of Section 12, Township 7 North (T.7 N.), Range 5 West (R.5 W.), the boundary proceeds in a southwesterly direction in a straight line approximately 1.7 miles along Skellenger Lane, past its intersection with Conn Creek Road, to the point of intersection with the main channel of the Napa River (on the ''Rutherford'' map);

(2) Then south along the center of the river bed approximately .4 miles to the point where an unnamed stream drains into the Napa River from the west;

(3) Then along the unnamed stream in a generally northwesterly direction to its intersection with the west track of the Southern Pacific Railroad Track;

(4) Then southeasterly along said railroad track 1,650 feet to a point which is approximately 435 feet north of the centerline of the entry road to Robert Mondavi Winery (shown on the map) to the southeast corner of Assessor's Parcel Number 27–250–14;

(5) Thence southwesterly S 55°06′28″ W for 3,869 feet along the common boundary between Assessor's Parcel Numbers 27–250–14 and 27–280–50/51 to the southwest corner of Assessor's Parcel Number 27–250–14;

(6) Thence northwesterly N 40°31′42″ W for 750 feet along the westerly property line of Assessor's Parcel Number 27–250–14;

(7) Thence southwesterly S 51°00′ W in a straight line to the 500-foot contour line of the Mayacamas Range in the northwestern corner of Section 28, T.7 N., R.5 W.;

(8) Then proceeding along the 500-foot contour line in a generally northwesterly direction in T.7 N., R.5 W. through Sections 21, 20, 17, 18, 17, and 18 to the northwest portion of Section 7 where the 500-foot contour line intersects a southwestward straight line extension of the light-duty road known as Inglewood Avenue;

(9) Thence in a straight line in a northeasterly direction along this extension of Inglewood Avenue to its intersection with the north fork of Bale Slough;

(10) Thence in a southeasterly direction along the north fork of Bale Slough approximately 2,750 feet to its intersection with the end of the county road shown on the map as Zinfandel Avenue, known locally as Zinfandel Lane, near the 201-foot elevation marker;

(11) Then in a northeasterly direction along Zinfandel Avenue (Zinfandel Lane) approximately 2.12 miles to the intersection of that road and Silverado Trail, then continuing northeasterly in a straight line to the 380-foot contour line;

(12) Then following the 380-foot contour line southeasterly through Section 33 to the western border of Section

34, T.8 N., R.5 W., then following that section line north to the 500-foot contour line;

(13) Then following the 500-foot contour line southeasterly to the western border of Section 2, T.7 N., R.5 W., then south along that section line past Conn Creek to its intersection with the 500-foot contour line northwest of the unnamed 832-foot peak;

(14) Then continuing in a westerly direction and then a generally southeasterly direction along the 500-foot contour line through Sections 3, 2, 11 and 12 to the intersection of that contour line with the southern border of Section 12 (on Yountville map);

(15) Then proceeding in a straight line in a westerly direction to the intersection of the Silverado Trail with Skellenger Lane, the point of beginning.

[T.D. ATF–342, 58 FR 35876, July 2, 1993]

### § 9.134 Oakville.

(a) *Name.* The name of the viticultural area described in this section is ''Oakville.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Oakville viticultural area are two U.S.G.S. 7.5 minute series topographical maps of the 1:24,000 scale:

(1) ''Yountville Quadrangle, California,'' edition of 1951, photorevised 1968.

(2) ''Rutherford Quadrangle, California,'' edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The Oakville viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Yountville quadrangle map at the point where the county road known as the Silverado Trail intersects Skellenger Lane, just outside the southwest corner of Section 12, Township 7 North (T.7 N.), Range 5 West (R.5 W.), the boundary proceeds in a southwesterly direction in a straight line approximately 1.7 miles along Skellenger Lane, past its intersection with Conn Creek Road, to the point of intersection with the main channel of the Napa River (on the Rutherford quadrangle map);

(2) Then south along the center of the river bed approximately .4 miles to the point where an unnamed stream drains into the Napa River from the west;

(3) Then along the unnamed stream in a generally northwesterly direction to its intersection with the west track of the Southern Pacific Railroad Track;

(4) Then southeasterly along said railroad track 1,650 feet to a point which is approximately 435 feet north of the centerline of the entry road to Robert Mondavi Winery (shown on the map) to the southeast corner of Assessor's Parcel Number 27–250–14;

(5) Thence southwesterly S 55°06′28″ W for 3,869 feet along the common boundary between Assessor's Parcel Numbers 27–250–14 and 27–280–50/51 to the southwest corner of Assessor's Parcel Number 27–250–14;

(6) Thence northwesterly N 40°31′42″ W for 750 feet along the westerly property line of Assessor's Parcel Number 27–250–14;

(7) Thence southwesterly S 51°00′ W in a straight line to the 500-foot contour line of the Mayacamas Range in the northwestern corner of Section 28, T.7 N., R.5 W.;

(8) Then proceeding along the 500-foot contour line in a generally southeasterly direction through Sections 28, 29, 20, 29, 28, 29, 28, 33 and 34 of T.7 N., R.5 W. and Section 3 of T.6 N., R.5 W. to its intersection with the unnamed stream known locally as Hopper Creek near the middle of Section 3;

(9) Then along the unnamed stream (Hopper Creek) southeasterly and, at the fork in Section 3, northeasterly along the stream to the point where the stream intersects with the unnamed dirt road in the northwest corner of Section 2, T.6 N., R.5 W;

(10) Then proceed in a straight line to the light duty road to the immediate northeast in Section 2, then along the light duty road in a northeasterly direction to the point at which the road turns 90 degrees to the left;

(11) Then proceed along the light duty road 625 feet, then proceed northeasterly (N 40°43′ E) in a straight line 1,350 feet, along the northern property line of Assessor's Parcel Number 27–380–08 (not shown on the map), to State Highway 29, then continuing in a straight line approximately .1 mile to

the peak of the 320+ foot hill along the western edge of the Yountville Hills;

(12) Then proceed due east to the second 300-foot contour line, then follow that contour line around the Yountville Hills to the north to the point at which the 300-foot contour line exits the Rutherford quadrangle map for the second time;

(13) Then proceed (on the Yountville quadrangle map) in a straight line in a northeasterly direction approximately N 34°30′ E approximately 1,000 feet to the 90 degree bend in the unimproved dirt road shown on the map, then along that road, which coincides with a fence line (not shown on the map) to the intersection of Conn Creek and Rector Creek;

(14) Then along Rector Creek to the northeast past the Silverado Trail to the Rector Reservoir spillway entrance, then proceed due north along the spillway of Rector Reservoir, then east and northeast along the shoreline of Rector Reservoir to the point where the first unnamed stream enters the Reservoir;

(15) Thence follow the unnamed stream north and northeast to where it intersects an unimproved dirt road at the 1006-foot benchmark;

(16) Then proceed in a straight line approximately .6 mile due west to the intersection of an unnamed stream, then follow said stream downslope to the 500-foot contour line, and along that contour line northwesterly through sections 18 and 13 to the intersection of the contour line with the southern border of Section 12 in T.7 N, R.5 W.;

(17) Then proceed in a straight line in a westerly direction to the intersection of Skellenger Lane with the Silverado Trail, the point of beginning.

[T.D. ATF–343, 58 FR 35884, July 2, 1993]

### §9.135 Virginia's Eastern Shore.

(a) *Name.* The name of the viticultural area described in this section is ''Virginia's Eastern Shore.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the ''Virginia's Eastern Shore'' viticultural area are 3 U.S.G.S. Quadrangle (1:250,000 Series) maps. They are titled:

(1) Eastville, VA.; N.C.; MD., 1946 (revised 1969).

(2) Salisbury, MD.; DEL.; N.J.; VA., 1946 (revised 1969).

(3) Richmond VA.; MD., 1973.

(c) *Boundary.* The Virginia's Eastern Shore viticultural area is located in Accomack and Northampton counties, Virginia. The boundary is as follows:

(1) The beginning point is the intersection of the Virginia/Maryland border and Chincoteague Bay, near Greenbackville on the Salisbury, MD., U.S.G.S. map;

(2) From the beginning point, the boundary follows the coastline in a southwesterly direction. Where there are marshes indicated on the U.S.G.S. maps, the boundry is the inland side of these marshes;

(3) When the boundary reaches the southernmost point of the peninsula, on the Eastville, VA., U.S.G.S. map, the boundary turns and proceeds in a northwesterly direction, again following the coastline around Cherrystone Inlet on the Richmond, VA., U.S.G.S. map;

(4) The boundary continues to follow the coastline and the inland side of any marshes indicated on the U.S.G.S. maps in a northeasterly direction, until it reaches the Virginia/Maryland border on the Eastville, VA., U.S.G.S. map;

(5) The boundary then follows the Virginia/Maryland border back to the beginning point at Chincoteague Bay on the Salisbury, MD., U.S.G.S. map.

[T.D. ATF–309, 56 FR 24, Jan. 2, 1991]

### §9.136 Texas Hill Country.

(a) *Name.* The name of the viticultural area described in this section is ''Texas Hill Country.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the ''Texas Hill Country'' viticultural area are 7 U.S.G.S. (scale 1:250,000) maps. They are titled:

(1) Brownwood, Texas, 1954 (revised 1974);

(2) Sonora, Texas, 1954 (revised 1978);

(3) Llano, Texas, 1954 (revised 1975);

(4) Austin, Texas, 1954 (revised 1974);

(5) Del Rio, Texas, 1958 (revised 1969);

(6) San Antonio, Texas, 1954 (revised 1980);

(7) Seguin, Texas, 1953 (revised 1975).

(c) *Boundary.* The Texas Hill Country viticultural area is located in portions of McCulloch, San Saba, Lampasas, Burnet, Travis, Williamson, Llano, Mason, Menard, Kimble, Gillespie, Blanco, Hays, Kendall, Kerr, Edwards, Real, Bandera, Bexar, Comal, Guadalupe, Medina, and Uvalde counties, in the State of Texas. The boundary is as follows:

(1) The beginning point is the intersection of Interstate Highway 35 and State highway 29 to the north of the city of Austin, on the Austin Texas, U.S.G.S. map;

(2) From the beginning point, the boundary follows State highway 29 in a west-northwesterly direction to the intersection with U.S. Highway 183;

(3) The boundary then follows U.S. Highway 183 in a northwesterly direction to the top of the Austin map and across the northeast corner of the Llano, Texas, U.S.G.S. map, to the intersection with State Highway 190 in Lometa, on the Brownwood, Texas, U.S.G.S. map;

(4) The boundary then follows State Highway 190 in a southwesterly direction through San Saba and Brady on the Brownwood map to the intersection of U.S. Highway 83 at Menard, on the Llano, Texas, U.S.G.S. map;

(5) The boundary follows U.S. highway 83 in a southerly direction to the town of Junction, where it meets U.S. Highway 377 (Llano map);

(6) The boundary then follows U.S. Highway 377 southwest to the town of Rocksprings, on the Sonora, Texas, U.S.G.S. map, where it meets State Highway 55;

(7) The boundary then follows State Highway 55 in a southeasterly direction across the southeast portion of the Del Rio, Texas, U.S.G.S. map, and continues to the town of Uvalde, on the San Antonio, Texas, U.S.G.S. map, where it meets U.S. Highway 83;

(8) The boundary then follows U.S. Highway 83 south for approximately 2 miles, until it meets U.S. Highway 90;

(9) The boundary then follows U.S. Highway 90 east across the San Antonio map to its intersection with Loop 410 in the city of San Antonio;

(10) The boundary then follows Loop 410 to the west of San Antonio, until it meets Interstate Highway 35;

(11) The boundary then follows Interstate Highway 35 in a northeasterly direction across the San Antonio map and then across the northwest corner of the Seguin, Texas, U.S.G.S. map until it reaches the beginning point at the intersection with State highway 29 on the Austin, Texas, U.S.G.S. map.

[T.D. ATF–318, 56 FR 60923, Nov. 29, 1991, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

## § 9.137 Grand Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Grand Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Grand Valley viticultural area are six U.S.G.S. (7.5 minute series) topographical maps of the 1:24,000 scale:

(1) ''Palisade Quadrangle, Colorado,'' edition of 1962.

(2) ''Clifton Quadrangle, Colorado,'' edition of 1962, photorevised 1973.

(3) ''Grand Junction Quadrangle, Colorado,'' edition of 1962, photorevised 1973.

(4) ''Colorado National Monument Quadrangle, Colorado,'' edition of 1962, photorevised 1973.

(5) ''Fruita Quadrangle, Colorado,'' edition of 1962, photorevised 1973.

(6) ''Corcoran Point Quadrangle, Colorado,'' edition of 1962.

(c) *Boundary.* The Grand Valley viticultural area is located entirely within Mesa County, Colorado, in the western part of the State. The boundary is as follows:

(1) The beginning point is located on the Palisade quadrangle map at a point northeast of the city of Palisade where Interstate 70 crosses the Colorado River and intersects with U.S. Highways 6 and 24, adjacent to and immediately west of the Orchard Mesa Canal Aqueduct;

(2) From the beginning point, the boundary proceeds due east to the adjacent Orchard Mesa Canal Aqueduct and then in a southerly direction along the Orchard Mesa Canal Aqueduct to an unnamed creek in the western part of section 11, Township 11 South, Range 98 West (T. 11 S., R. 98 W.);

(3) Thence in a southeasterly direction along the unnamed creek to its intersection with the 5000-foot contour

line in the northeast corner of section 1, T. 1 S., R. 2 E.;

(4) Thence in a northwesterly and then a southerly direction along the 5000-foot contour line to its intersection with Watson Creek in section 12, T. 1 S., R. 2 E.;

(5) Thence in a southeasterly direction along Watson Creek to its intersection with the electrical power lines in the southern part of section 12, T. 1 S., R. 2 E.;

(6) Thence in a southwesterly direction along the electrical power lines along the northern slope of Horse Mountain to that point where the power lines intersect with the Jeep Trail in the central part of section 15, T. 1 S., R. 2 E.;

(7) Thence in a northwesterly direction along the Jeep Trail to its intersection with Orchard Mesa Canal No. 2 on the western border of section 10, T. 1 S., R. 2 E.;

(8) Thence in a generally southwesterly direction along Orchard Mesa Canal No. 2 through the Clifton quadrangle map to the Canal's junction with the Gunnison River on the Grand Junction quadrangle map (western part of section 31, T. 1 S., R. 1 E.);

(9) Thence in a generally northwesterly direction along the Gunnison River to its junction with the Colorado River in section 22, T. 1 S., R. 1 W.;

(10) Thence continuing in a northwesterly direction along the Colorado River to the bridge where County Road 340 crosses the river (Section 15, T. 1 S., R. 1 W.);

(11) Thence in a southwesterly direction along County Road 340 approximately .2 mile to its intersection with a secondary highway, hard surface road, known locally as Monument Road;

(12) Thence in a southwesterly direction along Monument Road to the boundary of the Colorado National Monument, located on the Colorado National Monument quadrangle map (section 30, T. 1 S., R. 1 W.);

(13) Thence in a generally northwesterly direction along the boundary of the Colorado National Monument to its intersection with County Road 340 (known locally as Broadway) on the northern border of section 32, T. 1 N., R. 2 W.;

(14) Thence in a generally northerly direction along County Road 340 to the city of Fruita where County Road 340 (known locally as Cherry Street) intersects K Road on the Fruita quadrangle map;

(15) Thence due east on K Road to the northeast corner of section 17, T. 1 N., R. 1 W., on the Corcoran Point quadrangle map, then extending in the same direction in a straight line along the northern boundary of section 16, T. 1 N., R. 1 W. to the intersection with the Government Highline Canal;

(16) Thence in a southeasterly direction along the Government Highline Canal to its intersection with U.S. Interstate 70 on the Grand Junction quadrangle map;

(17) Thence in an easterly direction along U.S. Interstate 70 through the Clifton quadrangle map to where Interstate 70 crosses the Colorado River and intersects with U.S. Highways 6 and 24 on the Palisade quadrangle map, the point of beginning.

[T.D. ATF–317, 56 FR 59216, Nov. 25, 1991]

### §9.138 Benmore Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Benmore Valley.''

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Benmore Valley viticultural area are two U.S.G.S. maps. They are entitled:

(1) ''Hopland, CA,'' 7.5 Minute Series, edition of 1960, (photoinspected 1975); and

(2) ''Purdys Gardens, CA,'' 7.5 Minute Series, edition of 1958, (photoinspected 1975).

(c) *Boundaries.* The Benmore Valley viticultural area is located in the southwest corner of Lake County, California. It lies entirely within the North Coast viticultural area. The beginning point is an unnamed peak of 2788 feet elevation found in the southeast portion of section 35, T. 14 N., R. 11 W., on the ''Purdys Gardens, CA'' U.S.G.S. map:

(1) Then southwest in a straight line to the point where an unnamed unimproved road crosses the south section line of section 35, T. 14 N., R. 11 W., west of Benmore Creek;

(2) Then following the unnamed unimproved road south to the intersection with the boundary between Lake and Mendocino Counties;

(3) Then following the county boundary between Lake and Mendocino Counties east and south to the intersection with the 2800 foot contour line;

(4) Then following the 2800 foot contour line in a northerly and then southernly direction to its intersection with the boundary between Lake and Mendocino Counties on the southern edge of section 2, T. 13 N., R. 11 W;

(5) Then following the boundary between Lake and Mendocino Counties east to the point of intersection of sections 1, 2, 11, and 12, T. 13 N., R. 11 W;

(6) Then southeasterly in a straight line to an unnamed peak of 2769 feet elevation in the center of section 12, T. 13 N., R. 11 W;

(7) Then south in a straight line to the point where the boundary between Lake and Mendocino Counties changes from an east-west direction to a north-south direction;

(8) Then in a straight line in an easterly direction to an unnamed peak of 2883 feet elevation in the southwestern portion of section 5, T. 13 N., R. 10 W;

(9) Then northeast in a straight line to the easternmost peak of an unnamed ridge with four peaks in the center of section 5, T. 13 N., R. 10 W;

(10) Then northerly in a straight line to an unnamed peak of 2647 feet elevation near the north section line of section 5, T. 13 N., R. 10 W;

(11) Then westerly in a straight line to the point of intersection between section 5, T. 13 N., R 10 W., section 31, T. 14 N., R. 10 W., and section 1, T. 13 N., R. 11 W;

(12) Then northwest in a straight line to an unnamed peak of 2904 feet elevation in the north portion of section 1, T. 13 N., R. 11 W;

(13) Then northwest in a straight line to an unnamed peak of 2788 feet elevation, the point of beginning.

[T.D. ATF–315, 56 FR 52191, Oct. 18, 1991]

### § 9.139 Santa Lucia Highlands.

(a) *Name.* The name of the viticultural area described in this section is ''Santa Lucia Highlands.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the ''Santa Lucia Highlands'' viticultural area are 7 U.S.G.S. Quadrangle 7.5 minute series topographic maps. They are titled:

(1) Chualar, Calif., 1947 (photorevised 1984)

(2) Gonzales, Calif., 1955 (photorevised 1984)

(3) Rana Creek, Calif., 1956 (photoinspected 1973)

(4) Palo Escrito Peak, Calif., 1956 (photorevised 1984)

(5) Soledad, Calif., 1955 (photorevised 1984)

(6) Sycamore Flat, Calif., 1956 (photorevised 1984)

(7) Paraiso Springs, Calif., 1956 (photorevised 1984)

(c) *Boundaries.* The Santa Lucia Highlands viticultural area is located in Monterey County, California. The beginning point is found on the ''Chualar, California'' U.S.G.S. map, where Limekiln Creek crosses the 360 foot contour interval. This point also coincides with the western boundary of the Guadalupe Y Llanitos de los Correos Land Grant and the eastern boundary of section 28, T. 16S., R. 4E. The boundary is as follows:

(1) From the beginning point the boundary follows Limekiln Creek for approximately 1.25 miles northeast to the 100 foot elevation.

(2) Then following the 100 foot contour in a southeasterly direction for approximately 1 mile, where the boundary intersects the west bank of the Salinas River.

(3) Then following the west bank of the Salinas River in a southeasterly direction on the Gonzales, California U.S.G.S. map for approximately 2.50 miles to the point on the Palo Escrito Peak, California U.S.G.S. map where the river channel crosses the 120 foot elevation.

(4) Then following the 120 foot elevation due south for approximately 2,200 feet where it climbs to the 160 foot elevation.

(5) Then following the 160 foot elevation in a southeasterly direction for approximately 6.50 miles, to the point where the 160 foot elevation crosses River Road.

(6) Then following River Road in a southeasterly direction for approximately 1 mile to the junction of River, Fort Romie and Foothill Roads.

(7) Then following Foothill Road in a southeasterly direction for approximately 4 miles to the junction of Foothill and Paraiso Roads on the Soledad, California U.S.G.S. map.

(8) Then following Paraiso Road in a southerly direction to the intersection with Clark Road on the Paraiso Springs, California U.S.G.S. map.

(9) Then east-northeasterly along Clark Road for approximately 1,000 feet to its intersection with an unnamed light-duty road to the south.

(10) Then in a straight south-southeasterly line for approximately 1.9 miles to the line's intersection with the southeast corner of section 33, T18S, R6E (this line coincides with the unnamed light duty road for about 0.4 miles and then with the eastern boundaries of sections 29, 32 and 33, T18S, R6E, which mark this portion of the western boundary of the historical Arroyo Seco Land Grant).

(11) Then straight west along the southern boundaries of sections 33, 32, and 31, T18S, R6E, to the southwest corner of section 31.

(12) Then north along the western boundaries of sections 31 and 30, to the northwestern corner of section 30 T. 18S., R. 6E.

(13) Then northwest in a straight diagonal line to the northwest corner of section 24, T. 18S., R. 5E on the Sycamore Flat, California U.S.G.S. map.

(14) Then north along the western boundary of section 13, T. 18S., R. 5E., to the northwestern corner of section 13, T. 18S., R. 5E.

(15) Then northwest in a diagonal line across sections 11 and 3, to the northwest corner of section 3, T. 18S., R. 5E on the Palo Escrito Peak, California U.S.G.S. map.

(16) Then due west along the southern boundary of section 33, T. 17S., R. 5E., to the southwestern corner of section 33, T. 17S., R. 5E.

(17) Then north along the western boundary of section 33 to the southeast corner of section 29, T. 17S., R. 5E.

(18) Then northwest in a diagonal line through sections 29, 19, 13, and 11, to the northwest corner of section 11, T. 17S., R. 4E on the Rana Creek, California U.S.G.S. map.

(19) Then north along the western boundary of section 2, T. 17S., R. 4E., to the northwestern corner of section 2, T. 17S., R. 4E.

(20) Then west along the southern boundary of section 34, T. 16S., R. 4E., to the southwestern corner of section 34, T. 16S., R. 4E.

(21) Then north along the eastern boundary of sections 33 and 28, T. 16S., R. 4E., for approximately 1 mile, to the point where the eastern boundary of section 28 T. 165., R. 4E., coincides with the western boundary of the Guadalupe Y Llanitos de los Correos Land Grant on the Chualar, California U.S.G.S. map.

(22) Then northwest along the grant line for approximately 2,500 feet to the point of beginning on Limekiln Creek.

[T.D. ATF–321, 57 FR 20764, May 15, 1992, as amended by T.D. TTB–49, 71 FR 34527, June 15, 2006]

### §9.140 Atlas Peak.

(a) *Name.* The name of the viticultural area described in this section is ''Atlas Peak.''

(b) *Approved maps.* The appropriate maps of determining the boundaries of the Atlas Peak viticultural area are two U.S.G.S. maps. They are entitled:

(1) ''Yountville, Calif.,'' 7.5 minute series, edition of 1951, (photorevised 1968); and

(2) ''Capell Valley, Calif.,'' 7.5 minute series, edition of 1951, (photorevised 1968).

(c) *Boundaries.* The Atlas Peak viticultural area is located in Napa County, California. It lies entirely within the Napa Valley viticultural area. The beginning point is Haystack (peak) found in section 21, T. 7 N., R. 4 W. on the ''Yountville'' U.S.G.S. map;

(1) From the beginning point, the boundary proceeds south in a straight line approximately 0.5 miles, to the highest point of an unnamed peak of 1443 feet elevation on the boundary of sections 21 and 28, T. 7 N., R. 4 W.;

(2) Then southeast in a straight line approximately one mile to an unnamed pass with an elevation of 1485 feet, located on Soda Canyon Road;

(3) Then easterly in a straight line approximately 0.5 miles to an unnamed peak of 2135 feet elevation;

(4) Then in a generally southeasterly direction, as a series of five straight lines connecting the highest points of unnamed peaks with elevations of 1778, 2102, 1942, 1871 and 1840 feet, ending in the center of section 2, T. 6 N., R. 4 W.;

(5) Then southeast in a straight line approximately 1.8 miles to the highest point of an unnamed peak of 1268 feet elevation in section 12, T. 6 N., R. 4 W. on the Capell Valley U.S.G.S. map;

(6) Then east-southeast in a straight line approximately 1.1 miles to the point where an unnamed tributary stream enters Milliken Creek, immediately south of the Milliken Reservoir in section 7, T. 6 N., R. 3 W.;

(7) Then following the unnamed stream east-northeast approximately 0.5 miles to its source;

(8) Then northeast in a straight line approximately 0.5 miles, through the highest point of an unnamed peak of 1846 feet elevation, to the 1600 foot contour line in the eastern portion of section 8, T. 6 N., R. 3 W.;

(9) Then following the 1600 foot contour line generally north and west for approximately 10 miles, to the point of intersection with the boundary line between sections 12 and 13, T. 7 N., R. 4 W. on the Yountville U.S.G.S. map;

(10) Then following the section boundary line west approximately 1.1 miles to the intersection with an unnamed, unimproved road;

(11) Then northwest in a straight line approximately 0.7 miles to the highest point of an unnamed peak of 2114 feet elevation, located in section 10, T. N., R. 4 W.;

(12) Then northwest in a straight line approximately 0.7 miles to the highest point of an unnamed peak of 2023 feet elevation, located in section 10, T. N., R. 4 W.;

(13) Then southwest in a straight line approximately 2.2 miles to Haystack (peak), the point of beginning.

[T.D. ATF–320, 57 FR 2681, Jan. 22, 1992]

### § 9.141 Escondido Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Escondido Valley.''

(b) *Approved map.* The appropriate map for determining the boundaries of the ''Escondido Valley'' viticultural area is 1 U.S.G.S. (scale 1:250,000) map. It is titled Fort Stockton, Texas, 1954 (revised 1973).

(c) *Boundary.* The Escondido Valley viticultural area is located in Pecos County, Texas. The boundary is as follows:

(1) The beginning point is the intersection of Interstate Route 10 (I–10) and an intermittent stream approximately 18 miles east of the city of Fort Stockton (standard reference GE3317 on the Fort Stockton, Texas, U.S.G.S. map);

(2) From the beginning point, the boundary follows I–10 in an easterly direction approximately 9 miles until a southbound trail diverges from I–10 just past the point where it intersects horizontal grid line 2 of square GE on the Fort Stockton, Texas, U.S.G.S. map;

(3) The boundary then follows the trail in a generally southeasterly direction about 5 miles until it intersects the 3000 foot contour line;

(4) The boundary follows the 3000 foot contour line in a generally westerly direction approximately 17 miles;

(5) The boundary continues to follow the 3000 foot contour line as it turns sharply northwest, but diverges from the contour line when the contour line turns south again;

(6) From the point where it diverges from the contour line, the boundary follows a straight north-northwesterly line as it returns to the beginning point at I–10.

[ATF–322, 57 FR 20761, May 15, 1992]

### § 9.142 Bennett Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Bennett Valley''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Bennett Valley viticultural area are four 1:24,000 scale USGS topographic maps. They are titled:

(1) Santa Rosa Quadrangle, CA—Sonoma Co. 1994

(2) Kenwood Quadrangle, CA 1954, photorevised 1980

(3) Glen Ellen Quadrangle, CA—Sonoma Co. 1954, photorevised 1980

(4) Cotati Quadrangle, CA—Sonoma Co. 1954, photorevised 1980

(c) *Boundary.* The Bennett Valley viticultural area is entirely within Sonoma County, California, and is located northwest of the peak of Sonoma Mountain and southeast of the city of Santa Rosa.

(1) Beginning at the peak of Taylor Mountain (BM 1401), Section 6, T6N, R7W, proceed straight northeast to the intersection of the common line between Sections 31 and 32 and the 560-foot elevation line, T7N, R7W; continue straight northeast at the same angle, crossing the Bennett Valley Golf Course and Matanzas Creek, to a point on the 500-foot elevation line approximately 400 feet north of the southern boundary of Section 20, T7N, R7W (Santa Rosa Quadrangle); then

(2) Proceed straight southeast to the center peak of the three unnamed peaks above the 1,100-foot elevation line, located approximately 1,600 feet southwest of Hunter Spring, in Section 28, T7N, R7W (Santa Rosa Quadrangle); then

(3) Proceed straight east-southeast to a 1,527-foot peak in the southeast corner of Section 28, T7N, R7W (Santa Rosa Quadrangle); then

(4) Proceed straight southeast to Bennett Mountain's 1,887-foot peak, Section 34, T7N, R7W (Kenwood Quadrangle); then

(5) Proceed straight southeast to the 1,309-foot peak located northwest of a water tank and approximately 400 feet north of the southern boundary of Section 35, T7N, R7W (Kenwood Quadrangle); then

(6) Proceed straight south-southeast to the 978-foot peak in the northeast quadrant of Section 11, T6N, R7W, and continue straight south-southeast approximately 600 feet to the ''T'' intersection of two unimproved roads located on the common boundary line between Sections 11 and 12, T6N, R7W (Kenwood Quadrangle); then

(7) Proceed south along the north-south unimproved road to its intersection with Sonoma Mountain Road, Section 13, T6N, R7W, and continue straight south to the 1,600-foot elevation line, Section 13, T6N, R7W (Glen Ellen Quadrangle); then

(8) Proceed west along the meandering 1,600-foot elevation line to the point where it crosses the common line between Sections 22 and 23, T6N, R7W (Glen Ellen Quadrangle); then

(9) Proceed straight west-northwest to the point where the 900-foot elevation line crosses the common line between Sections 15 and 16, T6N, R7W, approximately 500 feet north of the southwest corner of Section 15 (Cotati Quadrangle); then

(10) Proceed straight northwest to the intersection of Grange Road (known as Crane Canyon Road to the west) and the southern boundary of Section 9, and continue straight west along that section boundary to the southwest corner of Section 9, T6N, R7W (Cotati Quadrangle); then

(11) Proceed straight north-northwest to the 961-foot peak on the east side of Section 8, T6N, R7W (Santa Rosa Quadrangle); and then

(12) Proceed straight northwest to the peak of Taylor Mountain, returning to the point of beginning.

[T.D. TTB–6, 68 FR 61748, Oct. 30, 2003]

### §9.143 Spring Mountain District.

(a) *Name.* The name of the viticultural area described in this section is ''Spring Mountain District.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Spring Mountain District viticultural area are four U.S.G.S. 7.5 minute series topographical maps of the 1:24000 scale. They are titled:

(1) ''Kenwood, Calif.,'' 1954 (photorevised 1980).

(2) ''Rutherford, Calif.,'' 1951 (photorevised 1968).

(3) ''St. Helena, Calif.,'' 1960 (photorevised 1980).

(4) ''Calistoga, Calif.,'' 1958 (photorevised 1980).

(c) *Boundary.* The Spring Mountain District viticultural area is located in Napa County, California, within the Napa Valley viticultural area. The boundary is as follows:

(1) Beginning on the Calistoga quadrangle map at the Napa-Sonoma county line at the boundary line between sections 18 and 19 in T8N/R6W.

(2) Then east along the boundary line between sections 18 and 19 for approximately 3/4 of a mile to its intersection

with Ritchie Creek at the boundary line between sections 17 and 20.

(3) Then northeast along Ritchie Creek approximately 2 miles, to the 400 foot contour line in the northeast corner in section 16 of T8N/R6W.

(4) Then along the 400 foot contour line in a northeast then generally southeast direction, through the St. Helena and Rutherford quadrangle maps, approximately 9 miles, past the town of St. Helena to the point where it intersects Sulphur Creek in Sulphur Canyon, in the northwest corner of section 2 in T7N/R6W.

(5) Then west along Sulfur Creek (onto the Kenwood quadrangle map) and south to the point where it first divides into two intermittent streams in section 3 in T7N/R6W.

(6) Then south along the intermittent stream approximately 1.5 miles to the point where it intersects the 2,360 foot contour line in section 10 in T7N/R6W.

(7) Then southwest in a straight line, approximately .10 mile, to the unnamed peak (elevation 2600 feet) at the boundary line between Napa and Sonoma Counties.

(8) Then in a generally northwest direction along the Napa-Sonoma county line, through sections 10, 9, 4, 5, 32, 33, 32, 29, 20, and 19, to the beginning point on the Calistoga quadrangle map at the boundary between sections 18 and 19 in T8N/R6W.

[T.D. ATF–341, 58 FR 28350, May 13, 1993]

### § 9.144 Texas High Plains.

(a) *Name.* The name of the viticultural area described in this section is ''Texas High Plains.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Texas High Plains viticultural area are six U.S.G.S. topographical maps of the 1:250,000 scale. They are titled:

(1) ''Clovis, New Mexico; Texas'' 1954, revised 1973.

(2) ''Brownfield, Texas; New Mexico'' 1954, revised 1973.

(3) ''Hobbs, New Mexico; Texas'' 1954, revised 1973.

(4) ''Plainview, Texas'' 1954, revised 1974.

(5) ''Lubbock, Texas'' 1954, revised 1975.

(6) ''Big Spring, Texas'' 1954, revised 1975.

(c) *Boundary.* The Texas High Plains viticultural area is located in Armstrong, Bailey, Borden, Briscoe, Castro, Cochran, Crosby, Dawson, Deaf Smith, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Lamb, Lubbock, Lynn, Motley, Parmer, Randall, Swisher, Terry and Yoakum Counties, Texas. The boundary is as follows:

(1) Beginning on the Hobbs, New Mexico; Texas, map at the intersection of the Texas-New Mexico border and U.S. Route 180 east of Hobbs, New Mexico;

(2) The boundary follows U.S. Route 180 east through Seminole, Texas and onto the Big Spring, Texas, U.S.G.S. map where it intersects with the 3,000 foot contour line in the town of Lamesa, Texas;

(3) The boundary then follows the 3,000 foot contour line in a generally northeasterly direction across the U.S.G.S. maps of Big Spring and Lubbock, Texas;

(4) The boundary continues along the 3,000 foot contour line onto the map of Plainview, Texas, where it follows a generally northwesterly direction until it intersects with State Highway 217 approximately 12 miles east of Canyon, Texas;

(5) The boundary then follows State Highway 217 west to Canyon, Texas, leaves State Highway 217 and proceeds in a straight line in a northwesterly direction until it intersects with U.S. Route 60, still within Canyon, Texas;

(6) The boundary then follows U.S. Route 60 in a southwesterly direction onto the U.S.G.S. map of Clovis, New Mexico; Texas, where it intersects the Texas-New Mexico border;

(7) The boundary then follows the Texas-New Mexico border south, across the U.S.G.S. map of Brownfield, Texas; New Mexico, to the beginning point on the Hobbs, New Mexico; Texas, U.S.G.S. map.

[T.D. ATF–336, 58 FR 11967, Mar. 2, 1993]

### § 9.145 Dunnigan Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Dunnigan Hills.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Dunnigan Hills viticultural area

are three U.S.G.S. 15 minute series topographical maps of the 1:62500 scale. They are titled:

(1) ''Guinda, Calif.,'' 1959.

(2) ''Dunnigan, Calif.,'' 1953.

(3) ''Woodland, Calif.,'' 1953.

(c) *Boundary.* The Dunnigan Hills viticultural area is located in Yolo County, California. The boundary is as follows:

(1) The beginning point is on the Dunnigan, Calif., U.S.G.S. map at the intersection of Buckeye Creek and U.S. Route 99W just south of the Colusa-Yolo county line;

(2) From the beginning point, the boundary follows Route 99W in a southeasterly direction until an unnamed westbound light-duty road coincident with a grant boundary (referred to by the petitioner as County Road 17) diverges from Route 99W just north of the town of Yolo, California, on the Woodland, Calif., U.S.G.S. map;

(3) The boundary then follows the County Road 17 for approximately 2 miles to an unnamed southbound light duty road (referred to by the petitioner as County Road 95A);

(4) The boundary then follows County Road 95A south for approximately 1/2 mile to an unnamed westbound light duty road (referred to by the petitioner as County Road 17A);

(5) The boundary then proceeds west along County Road 17A for approximately 3/8 mile to an unnamed southbound light duty road (referred to by the petitioner as County Road 95);

(6) The boundary then proceeds south along County Road 95 for approximately 1 mile to an unnamed light duty road which goes in a southwesterly direction (referred to by the petitioner as County Road 19);

(7) The boundary then proceeds southwest along County Road 19 for approximately 1/4 mile to an unnamed light duty road which travels south-southwest (referred to by the petitioner as County Road 94B);

(8) The boundary then proceeds southwest along County Road 94B approximately 1¼ mile until it intersects Cache Creek;

(9) The boundary then follows Cache Creek in a westerly direction 5.5 miles until it intersects an unnamed north-south light duty road approximately 1 mile north of the city of Madison, California (referred to by the petitioner as County Road 89);

(10) The boundary then follows County Road 89 two miles in a northerly direction back on to the Dunnigan, Calif., U.S.G.S. map where it intersects an unnamed light duty road (referred to by the petitioner as County Road 16);

(11) The boundary follows County Road 16 west for approximately 2 miles onto the Guinda, Calif., U.S.G.S. map, where it turns north onto an unnamed light-duty road between sections 31 and 32 of T10N/R1W (referred to by the petitioner as County Road 87);

(12) The boundary follows County Road 87 north for 2 miles to an unnamed east-west light duty road (referred to by the petitioner as County Road 14);

(13) The boundary follows County Road 14 west for 3 miles, and then leaves the unnamed road and turns north on the dividing line between sections 22 and 23 of T11N/R2W.

(14) The boundary continues due north until it intersects Little Buckeye Creek just south of the Yolo-Colusa county line;

(15) The boundary then follows Little Buckeye Creek in an easterly direction until it joins Buckeye Creek;

(16) The boundary then follows Buckeye Creek in an easterly direction back to the point of beginning on the Dunnigan, Calif., U.S.G.S. map.

[T.D. ATF–340, 58 FR 28352, May 13, 1993]

### §9.146 Lake Wisconsin.

(a) *Name.* The name of the viticultural area described in this section is ''Lake Wisconsin.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the ''Lake Wisconsin'' viticultural area are two U.S.G.S. 7.5 minute series topographical maps of the 1:24,000 scale. They are titled:

(1) Sauk City, Wis., 1975; and

(2) Lodi, Wis., 1975.

(c) *Boundary.* The Lake Wisconsin viticultural area is located in Columbia and Dane Counties, Wisconsin. The boundary is as follows:

(1) The point of beginning is on the ''Lodi, Wisc.'' U.S.G.S. map in the northeast quarter-section of section 17,

Lodi Township, Columbia County, where Spring Creek enters Lake Wisconsin;

(2) From the point of beginning, follow the southern shoreline of Lake Wisconsin northwest to where Lake Wisconsin narrows and becomes the Wisconsin River on the map, in the vicinity of the town of Merrimac, Sauk County;

(3) Then continue along the southern shoreline of the Wisconsin River, west and south past Goose Egg Hill, Columbia County, on the ''Sauk City, Wisc.'' quadrangle map, and then west to a southwest bend in the shoreline opposite Wiegands Bay, Sauk County, where the Wisconsin River becomes Lake Wisconsin again on the map;

(4) Then southwest and south along the eastern shoreline of Lake Wisconsin, to the powerplant that defines where Lake Wisconsin ends and the Wisconsin River begins again;

(5) Then continuing south along the Wisconsin River shoreline to where it intersects with U.S. Highway 12 opposite Sauk City, Sauk County;

(6) Then in a southeasterly direction on U.S. Highway 12 to the intersection at State Highway 188, just over one-half a mile;

(7) Then in a northeasterly direction about 1,000 feet on State Highway 188, to the intersection of Mack Road;

(8) Then east on Mack Road to the intersection of State Highway Y, about 3 miles;

(9) Then follow State Highway Y in a generally northeasterly direction onto the ''Lodi, Wisc.'' quadrangle map and continue in a northeasterly direction to the intersection with State Highway 60;

(10) Then in a northeasterly direction on State Highway 60 to the intersection with State Highway 113 in the town of Lodi;

(11) Then in a northwesterly direction on State Highway 113 to where it crosses Spring Creek the second time just before Chrislaw Road;

(12) Then follow Spring Creek in a northwesterly direction to where it enters Lake Wisconsin, the point of beginning.

[T.D. ATF–352, 59 FR 539, Jan. 5, 1994]

## § 9.147 Hames Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Hames Valley.''

(b) *Approved maps.* The appropriate map for determining the boundary of the Hames Valley viticultural area is one U.S.G.S. 15 minute series topographical map, titled Bradley Quadrangle, California, edition of 1961, with a scale of 1:62,500.

(c) *Boundary.* The Hames Valley viticultural area is located in southern Monterey County in the State of California. The boundary is as follows:

(1) Beginning at the southeast corner of section 26, T. 23 S., R. 10 E., which coincides with the point where the 640 foot contour line crosses the Swain Valley drainage, the boundary proceeds in a straight line across section 26 to the northwest corner of section 26, T. 23 S., R. 10 E.;

(2) Then west northwest in a straight line across sections 22, 21, 20, and 19, T. 23 S., R. 10 E., to the northwest corner of section 24, T. 23 S., R. 9 E.;

(3) Then southeast in a straight line across sections 24, 25, 30, 31, and 32, to the southeast corner of section 5, T. 24 S., R. 10 E.;

(4) Then east southeast in a straight line across section 9 to the southeast corner of section 10, T. 24 S., R. 10 E.;

(5) Then east southeast in a straight line for approximately 2.25 miles to Hill 704, located in section 18, T. 24 S., R. 11 E.;

(6) Then north northwest in a straight line for approximately 1.35 miles to Hill 801, located near the northwest corner of section 7, T. 24 S., R. 11 E., and then continue in a straight line to the northwest corner of section 6, T. 24 S., R. 11 E.;

(7) Then in a generally northwesterly direction along the Salinas River for approximately 1 mile to where the Swain Valley drainage enters the Salinas River about .11 mile south of the northern boundary line of section 36, T. 23 S., R. 10 E.;

(8) Then in a westerly direction for approximately .75 mile along the Swain Valley drainage to the southeast corner of section 26, T. 23 S., R. 10 E., the point of beginning.

[T.D. ATF–356, 59 FR 14100, Mar. 25, 1994]

**§9.148 Seiad Valley.**

(a) *Name.* The name of the viticultural area described in this section is ''Seiad Valley.''

(b) *Approved map.* The appropriate map for determining the boundary of the Seiad Valley viticultural area is a U.S.G.S. 7.5 minute series topographical map of the 1:24000 scale, titled ''Seiad Valley, Calif.,'' 1980.

(c) *Boundary.* The Seiad Valley viticultural area is located in Siskiyou County, California. The boundary is as follows:

(1) The beginning point is the intersection of the 1600 foot contour line with the power transmission line north of the Klamath River, near Mile 130;

(2) From the beginning point, the boundary follows the 1600′ contour line in a generally northeasterly direction until it reaches the intersection of an unnamed light duty road and an unimproved road just west of Canyon Creek;

(3) The boundary then follows the unimproved road north to its end, then goes east in a straight line until it reaches the 1800′ contour line;

(4) The boundary then follows the 1800′ contour line in a northeasterly direction to the point, near Sawmill Gulch, where the contour line crosses Seiad Creek and turns south and west;

(5) The boundary continues to follow the 1800′ contour line as it proceeds southwest for approximately 4.5 miles, then turns sharply south-southeast for approximately 0.3 miles, until the contour line turns sharply east at a point just north of the Klamath River;

(6) The boundary then diverges from the 1800′ contour line and proceeds south-southeast in a straight line, across the Klamath River and State Route 96, until it intersects with the 1600′ contour line;

(7) The boundary then follows the 1600′ contour line south and west, then north and west, roughly following the course of the Klamath River, until it reaches an unnamed peak 1744 feet high;

(8) The boundary continues along the 1600′ contour line as it diverges from the Klamath River and proceeds south, just to the east of an unnamed light duty road, to the point where that road crosses Grider Creek;

(9) The boundary diverges from the contour line and proceeds west in a straight line across the road and Grider Creek until it intersects with the 1600′ contour line on the west side of Grider Creek;

(10) The boundary then follows the 1600′ contour line north, west and north again until it reaches a point where the contour line turns west, just south of the Klamath River;

(11) The boundary diverges from the 1600′ contour line and proceeds in a straight line in a northeasterly direction, back to the point of beginning.

[T.D. ATF–357, 59 FR 26114, May 19, 1994]

**§9.149 St. Helena.**

(a) *Name.* The name of the viticultural area described in this section is ''St. Helena.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the St. Helena viticultural area are three U.S.G.S. 7.5 minute series topographical maps of the 1:24,000 scale. They are titled:

(1) St. Helena Quadrangle, California, edition of 1960, revised 1993;

(2) Calistoga Quadrangle, California, edition of 1958, photorevised 1980;

(3) Rutherford Quadrangle, California, edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The St. Helena viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Rutherford Quadrangle map at the point of intersection between State Highway 29 and a county road shown on the map as Zinfandel Avenue, known locally as Zinfandel Lane, the boundary proceeds in a southwest direction along Zinfandel Avenue to its intersection with the north fork of Bale Slough (blueline stream) near the 201 foot elevation marker;

(2) Thence in a northwesterly direction approximately 2,750 feet along the north fork of Bale Slough to a point of intersection with a southwesterly straight line projection of a light duty road locally known as Inglewood Avenue;

(3) Thence in a straight line in a southwesterly direction along this projected extension of Inglewood Avenue

approximately 2,300 feet to its intersection with the 500 foot contour line in Section 7, Township 7 North (T7N), Range 5 West (R5W);

(4) Thence along the 500 foot contour line in a generally northwesterly direction through Sections 7, 1 and 2, to its intersection of the western border of Section 2, T7N, R6W;

(5) Thence northerly along the western border of Section 2 approximately 500 feet to its intersection with Sulphur Creek in Sulphur Canyon in the northwest corner of Section 2, T7N, R6W;

(6) Thence along Sulphur Creek in an easterly direction approximately 350 feet to its intersection with the 400 foot contour line;

(7) Thence along the 400 foot contour line in a generally easterly, then northwesterly, direction past the city of St. Helena (on the St. Helena Quadrangle map) to a point of intersection with a southwesterly straight line projection of the county road shown as Bale Lane in the Carne Humana Rancho on the Calistoga Quadrangle map;

(8) Thence along the projected straight line extension of Bale Lane in a northeasterly direction approximately 700 feet to the intersection of State Highway 29 and Bale Lane and continuing northeasterly along Bale Lane to its intersection with the Silverado Trail;

(9) Thence in a northwesterly direction along the Silverado Trail approximately 1,500 feet to an unmarked driveway on the north side of the Silverado Trail near the 275 foot elevation marker;

(10) Thence approximately 300 feet northeasterly along the driveway to and beyond its point of intersection with another driveway and continuing in a straight line projection to the 400 foot contour line;

(11) Thence in a northerly and then generally southeasterly direction along the 400 foot contour line through Sections 10 (projected), 11, 12, 13, 24 and 25 in T8N, R6W, Section 30 in T8N, R5W, Sections 25 and 24 in T8N, R6W, Sections 19 and 30 in T8N, R5W to a point of intersection with the city limits of St. Helena on the eastern boundary of Section 30 in T8N, R5W, on the St. Helena Quadrangle map;

(12) Thence north, east and south along the city limits of St. Helena to the third point of intersection with the county road known as Howell Mountain Road in Section 29, T8N, R5W;

(13) Thence in a northeasterly direction approximately 900 feet along Howell Mountain Road to its intersection with Conn Valley Road;

(14) Thence northeasterly and then southeasterly along Conn Valley Road to its intersection with the eastern boundary of Section 28, T8N, R5W;

(15) Thence south approximately 5,200 feet along the eastern boundary of Sections 28 and 33 to a point of intersection with the 380 foot contour line near the southeast corner of Section 33, T8N, R5W, on the Rutherford Quadrangle map;

(16) Thence in a northwesterly direction along the 380 foot contour line in Section 33 to a point of intersection with a northeasterly straight line projection of Zinfandel Avenue;

(17) Thence in a southwesterly direction approximately 950 feet along this straight line projection of Zinfandel Avenue to its intersection with the Silverado Trail;

(18) Thence continuing along Zinfandel Avenue in a southwesterly direction to its intersection with State Highway 29, the point of beginning.

[T.D. ATF–366, 60 FR 47061, Sept. 11, 1995]

### § 9.150 Cucamonga Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Cucamonga Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Cucamonga Valley viticultural area are the following ten U.S.G.S. topographical maps (7.5 minute series 1:24000 scale):

(1) Mt. Baldy, Calif., 1967, photorevised 1988;

(2) Cucamonga Peak, Calif., 1966, photorevised 1988;

(3) Devore, Calif., 1966, photorevised 1988;

(4) San Bernardino North, Calif., 1967, photorevised 1988;

(5) Ontario, Calif., 1967, photorevised 1981;

(6) Guasti, Calif., 1966, photorevised 1981;

(7) Fontana, Calif., 1967, photorevised 1980;

(8) San Bernardino South, Calif., 1967, photorevised 1980;

(9) Prado Dam, Calif., 1967, photorevised 1981;

(10) Corona North, Calif., 1967, photorevised 1981.

(c) *Boundary.* The Cucamonga Valley viticultural area is located in San Bernardino and Riverside Counties, California. The boundary is as follows:

(1) The beginning point is the intersection of Euclid Avenue and 24th Street on the Mt. Baldy, Calif. U.S.G.S. map;

(2) From the beginning point, the boundary follows 24th Street east for approximately 0.3 mile, until it reaches the intersection of 24th Street with two unnamed light-duty streets to the north;

(3) The boundary then diverges from 24th Street and goes straight north for approximately 0.3 mile, until it reaches the 2,000 foot contour line;

(4) The boundary then follows the 2,000 foot contour line in a generally easterly direction across the Cucamonga Peak, Calif., U.S.G.S. map and onto the Devore, Calif., U.S.G.S. map until it reaches Lytle Creek Wash;

(5) The boundary follows the intermittent stream in Lytle Creek Wash in a southeasterly direction to the end of the intermittent stream on the Devore, Calif., U.S.G.S. map;

(6) The boundary then continues through Lytle Creek Wash, proceeding southeast in a straight line from the end of the intermittent stream, across the southwest corner of the San Bernardino North, Calif., U.S.G.S. map and onto the San Bernardino, South, Calif., U.S.G.S. map, to the northernmost point of the flood control basin at the end of the Lytle Creek Wash, a distance of approximately 4.3 miles;

(7) The boundary then proceeds in a straight line south-southeast across the flood control basin to the point where Lytle Creek Channel exits the basin;

(8) The boundary continues along Lytle Creek Channel until it empties into Warm Creek;

(9) The boundary then follows Warm Creek until it meets the Santa Ana River;

(10) The boundary then follows the western edge of the Santa Ana River in a generally southwesterly direction until it meets the San Bernardino—Riverside County line;

(11) The boundary follows the county line west, crossing onto the Guasti, Calif., U.S.G.S. map, until it reaches the unnamed channel between Etiwanda and Mulberry Avenues (identified by the petitioner as Etiwanda Creek Channel);

(12) The boundary then follows Etiwanda Creek Channel in a southerly direction until it parallels Bain Street;

(13) The boundary then diverges from Etiwanda Creek Channel and follows Bain Street south until it ends at Limonite Avenue in the northeast corner of the Corona North, Calif., U.S.G.S. map;

(14) The boundary then continues south in a straight line until it reaches the northern shore of the Santa Ana River;

(15) The boundary then follows the north shore of the Santa Ana River until it intersects the 560 foot contour line in Section 1 T3S/R7W;

(16) The boundary then follows the 560′ contour line to the north of the Santa Ana River in a generally westerly direction until it reaches Euclid Avenue on the Prado Dam, Calif., U.S.G.S. map;

(17) The boundary then follows Euclid Avenue north to the point of beginning.

[T.D. ATF–362, 60 FR 16578, Mar. 31, 1995]

### §9.151 Puget Sound.

(a) *Name.* The name of the viticultural area described in this section is ''Puget Sound.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Puget Sound viticultural area are four 1:250,000 scale U.S.G.S. topographical maps, one 1:25,000 scale topographic map, and three 1:24,000 scale topographic maps. They are titled:

(1) Hoquiam, Washington, 1958 revised 1974 (1:250,000)

(2) Seattle, Washington, 1958 revised 1974 (1:250,000)

(3) Wenatchee, Washington, 1957 revised 1971 (1:250,000)

(4) Victoria, B.C., Can., Wash., U.S., 1957 revised (U.S. area) 1974 (1:250,000)

(5) Auburn, Washington, 1983 (1:25,000)

(6) Buckley, Washington, 1993 (1:24,000)

(7) Cumberland, Washington, 1993 (1:24,000)

(8) Enumclaw, Washington, 1993 (1:24,000)

(c) *Boundary*. The Puget Sound viticultural area is located in the State of Washington. The boundaries of the Puget Sound viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps, follow.

(1) Beginning where the Whatcom county line comes closest to an unnamed secondary road (referred to in the petition as Silver Lake Road) on the U.S.G.S. map ''Victoria,'' T41N/R6E;

(2) Then south along Silver Lake Road approximately 5.5 miles to its intersection with State Highway 542, T39N/R5E;

(3) Then west and then southwest along State Highway 542 approximately 11 miles to its intersection with State Highway 9, T38N/R5E;

(4) Then south along State Highway 9 approximately 44 miles to its intersection with an unnamed secondary road (referred to in the petition as Burn Road) at the town of Arlington, T31N/R5E;

(5) Then south, southeast along Burn Road approximately 11 miles to its intersection with State Highway 92, T30N/R6E;

(6) Then south along State Highway 92 approximately 3 miles to its intersection with an unnamed light duty road (referred to in the petition as Machias Hartford Road), T29N/R6E;

(7) Then south along Machias Hartford Road approximately 4 miles to its intersection with an unnamed secondary road (referred to in the petition as Lake Roesiger Road), on the U.S.G.S. map ''Wenatchee,'' T29N/R7E;

(8) Then east along Lake Roesiger Road approximately 3.5 miles to its intersection with an unnamed secondary road (referred to in the petition as Woods Creek Road), T29N/R7E;

(9) Then south along Woods Creek Road approximately 10.5 miles to its intersection with U.S. Highway 2 in the town of Monroe, T27N/R7E;

(10) Then west along U.S. Highway 2 approximately ½ mile to its intersection with State Highway 203, T27N/R6E;

(11) Then south along State Highway 203 approximately 24 miles to its intersection with an unnamed secondary road (referred to in the petition as Preston-Fall City Road), at the town of Fall City, T24N/R7E;

(12) Then southwest along Preston-Fall City Road approximately 4 miles to its intersection with Interstate Highway 90 at the town of Preston, T24N/R7E;

(13) Then east along Interstate Highway 90 approximately 3 miles to its intersection with State Highway 18, T23N/R7E;

(14) Then southwest along State Highway 18 approximately 7 miles to its intersection with an unnamed secondary road (referred to in the petition as 276th Avenue SE), T23N/R6E;

(15) Then south along 276th Avenue SE approximately 5 miles to its intersection with State Highway 516 at the town of Georgetown, T22N/R6E;

(16) Then west along State Highway 516 approximately 2 miles to its intersection with State Highway 169 at the town of Summit on the U.S.G.S. map, ''Seattle,'' (shown in greater detail on the U.S.G.S. map, ''Auburn''), T22N/R6E;

(17) Then south along State Highway 169 approximately 11.5 miles to its intersection with State Highway 410 at the town of Enumclaw on the U.S.G.S. map, ''Wenatchee,'' (shown in greater detail on the U.S.G.S. map, ''Enumclaw''), T20N/R6E;

(18) Then southwest approximately 5 miles along State Highway 410 until its intersection with State Highway 165 on the U.S.G.S. map, ''Seattle,'' (shown in greater detail on the U.S.G.S. map, ''Buckley''), T19N/R6E;

(19) Then southwest on State Highway 165 until its intersection with State Highway 162 at the town of Cascade Junction on the U.S.G.S. map, ''Seattle'' (shown in greater detail on the U.S.G.S. Map, ''Buckley''), T19N/R6E;

(20) Then southwest along State Highway 162 approximately 8 miles to its intersection with an unnamed secondary road (referred to in the petition as Orville Road E.), T19N/R5E;

(21) Then south along Orville Road E., approximately 8 miles to its intersection with the CMSTP&P railroad at the town of Kapowsin, on the U.S.G.S. map, ''Hoquiam,'' T17N/R5E;

(22) Then south along the CMSTP&P railroad approximately 17 miles to where it crosses the Pierce County line at the town of Elbe, T15N/R5E;

(23) Then west along the Pierce County line approximately 1 mile to the eastern tip of Thurston County, T15N/R5E;

(24) Then west along the Thurston County line approximately 38 miles to where it crosses Interstate Highway 5, T15N/R2W;

(25) Then north along Interstate Highway 5 approximately 18 miles to its intersection with U.S. Highway 101 at the town of Tumwater on the U.S.G.S. map ''Seattle,'' T18N/R2W;

(26) Then northwest along U.S. Highway 101 approximately 18 miles to its intersection with State Highway 3 at the town of Shelton, T20N/R3W;

(27) Then northeast along State Highway 3 approximately 24 miles to where it crosses the Kitsap County line, T23N/R1W;

(28) Then north along the Kitsap County line approximately 3 miles to the point where it turns west, T23N/R1W;

(29) Then west along the Kitsap County line approximately 11 miles to the point where it turns north, T23N/R3W;

(30) Then continuing west across Hood Canal approximately 1 mile to join with U.S. Highway 101 just south of the mouth of an unnamed creek (referred to in the petition as Jorsted Creek), T23N/R3W;

(31) Then north along U.S. Highway 101 approximately 40 miles to the point where it turns west at the town of Gardiner on the U.S.G.S. map ''Victoria,'' T30N/R2W;

(32) Then west along U.S. Highway 101 approximately 32 miles to where it crosses the Elwha River, T30N/R7W;

(33) Then north along the Elwha River approximately 6 miles to its mouth, T31N/R7W;

(34) Then continuing north across the Strait of Juan de Fuca approximately 5 miles to the Clallam County line, T32N/R7W;

(35) Then northeast along the Clallam County line approximately 14 miles to the southwestern tip of San Juan County, T32N/R4W;

(36) Then northeast along the San Juan County line approximately 51 miles to the northern tip of San Juan County, T38N/R3W;

(37) Then northwest along the Whatcom County line approximately 19 miles to the western tip of Whatcom County, T41N/R5W;

(38) Then east along the Whatcom County line approximately 58 miles to the beginning.

[T.D. ATF–368, 60 FR 51899, Oct. 4, 1995]

### §9.152 Malibu-Newton Canyon.

(a) *Name.* The name of the viticultural area described in this petition is ''Malibu-Newton Canyon.''

(b) *Approved maps.* The appropriate map for determining the boundary of the Malibu-Newton Canyon viticultural area is the U.S.G.S. map, ''Point Dume Quadrangle, California'' (7.5 Minute Series 1:24,000 Topographic map, photorevised 1981).

(c) *Boundary.* The Malibu-Newton Canyon viticultural area is located in Los Angeles County, California. The boundary is as follows:

(1) Beginning at the intersection of the Newton Canyon creek (lowest elevation) and an unnamed medium duty road referred to by the petitioner as Kanan Dume Road at the boundary of section 13 and 18 on the U.S.G.S. map ''Point Dume Quadrangle.''

(2) Then south along Kanan Dume Road to the point where an unnamed, unimproved dirt road referred to by the petitioner as Ramerez Mountain Way crosses over Kanan Dume Road at the tunnel in the northwest corner of section 19.

(3) Then east along Ramerez Mountain Way, following the southern ridgeline of Newton Canyon, to Latigo Canyon Road in the southwest corner of section 17.

(4) Then south along Latigo Canyon Road to an unnamed, unimproved dirt road referred to by the petitioner as Newton Mountain Way at the southern boundary of section 17.

(5) Then northeast along Newton Mountain Way, following the southeastern ridgeline of Newton Canyon, to

an unnamed, unimproved dirt road referred to by the petitioner as Castro Mountain Way in section 16.

(6) Then west along Castro Mountain Way, past Castro Peak, following the northern ridgeline of Newton Canyon to Latigo Canyon Road in section 18.

(7) Then southwest along the natural ridgeline of Newton Canyon to the intersection of Kanan Dume Road and the 1,600 foot contour line in the southeastern portion of section 13.

(8) Then southeasterly along Kanan Dume Road to the beginning point.

[T.D. ATF–375, 61 FR 29952, June 13, 1996]

### § 9.153 Redwood Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Redwood Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Redwood Valley viticultural area are four Quadrangle 7.5 minute series 1:24,000 scale U.S.G.S. topographical maps. They are titled:

(1) Redwood Valley, Calif., 1960, photorevised 1975;

(2) Ukiah, Calif., 1958, photorevised 1975;

(3) Laughlin Range, Calif., 1991;

(4) Orrs Springs, California, provisional edition, 1991.

(c) *Boundary.* The Redwood Valley viticultural area is located in the east central interior portion of Mendocino County, California. The boundaries of the Redwood Valley viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps, are:

(1) The beginning point is the intersection of State Highway 20 with the eastern boundary of Section 13, T16N/R12W located in the extreme northeast portion of the U.S.G.S. map, ''Ukiah, Calif.'';

(2) Then north along the east boundary line of Sections 12 and 1 to the northeast corner of Section 1, T16N/R12W on the U.S.G.S. map, ''Redwood Valley, Calif.'';

(3) Then west along the northern boundary line of Section 1 to the northwest corner of Section 1, T16N/R12W;

(4) Then north along the east boundary line of sections 35, 26, 23, 14, 11, and 2 to the northeast corner of Section 2, T17N/R12W;

(5) Then west along the northern boundary of Sections 2, 3, 4, 5, and 6 to the northwest corner of Section 6, T17N/R12W;

(6) Then 10 degrees southwest cutting diagonally across Sections 1, 12, 13 ,24, 25, and 36 to a point at the northwest corner of Section 1, T16N/R13W on the U.S.G.S. map, ''Laughlin, Range, Calif.'';

(7) Then south along the western boundary line of Sections 1 and 12 to the southwest corner of Section 12, T16N/R13W;

(8) Then 13 degrees southeast across Sections 13, 18, and 17 to the intersection of State Highway 20 and U.S. Highway 101, T16N/R12W on the U.S.G.S. map, Ukiah, Calif.''; and

(9) Then easterly along a line following State Highway 20 back to the beginning point at the eastern boundary of Section 13, T16N/R12W located in the extreme northeast portion of the U.S.G.S. map ''Ukiah, Calif.''

[T.D. ATF–386, 61 FR 67466, Dec. 23, 1996]

### § 9.154 Chiles Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Chiles Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chiles Valley viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) St. Helena, CA 1960 photorevised 1980;

(2) Rutherford, CA 1951 photorevised 1968;

(3) Chiles Valley, CA 1958 photorevised 1980;

(4) Yountville, CA 1951 photorevised 1968.

(c) *Boundary.* The Chiles Valley viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Chiles Valley viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps follow. The local names of roads are identified by name.

(1) Beginning on the St. Helena, CA quadrangle map at the northernmost corner of Rancho Catacula in Section 34, Township 9 North (T9N), Range 5

West (R5W), Mount Diablo Base and Meridian (MDBM);

(2) Then in southwesterly direction along the Rancho Catacula boundary line to its intersection with the Rancho La Jota boundary line;

(3) Then in a south-southeasterly direction approximately 3,800 feet along the Rancho Catacula/Rancho La Jota boundary line to the point where the Rancho Catacula boundary separates from the common boundary with Rancho La Jota;

(4) Then in a southeasterly direction continuing along the Rancho Catacula boundary approximately 23,600 feet to a point of intersection, in the NE ¼ Sec. 19, T8N, R4W, on the Chiles Valley quadrangle map, with a county road known locally as Chiles and Pope Valley Road;

(5) Then in a southwesterly direction along Chiles and Pope Valley Road to a point where it first crosses an unnamed blueline stream in the SE ¼ Section 19, T8N, R4W;

(6) Then following the unnamed stream in generally southeast direction to its intersection with the 1200 foot contour;

(7) Then following the 1200 foot contour in a northeasterly direction to a point of intersection with the Rancho Catacula boundary in section 20, T8N, R4W;

(8) Then in a southeasterly direction along the Rancho Catcula boundary approximately 17,500 feet to the southwest corner of Rancho Catacula in section 34, T8N, R4W on the Yountville, CA, quadrangle map;

(9) Then in a northeasterly direction along the Rancho Catacula boundary approximately 650 feet to its intersection with the 1040 foot contour;

(10) Then along the 1040 foot contour in a generally east and northeast direction to its intersection with the Rancho Catacula boundary;

(11) Then in a northeasterly direction along the Rancho Catacula boundary approximately 1100 feet to its intersection with the 1040 foot contour;

(12) Then along the 1040 foot contour in an easterly direction and then in a northwesterly direction to its intersection of the Rancho Catacula boundary;

(13) Then in a southwesterly direction along the Rancho Catacula boundary approximately 300 feet to a point of intersection with a line of high voltage power lines;

(14) Then in a westerly direction along the high voltage line approximately 650 feet to its intersection with the 1000 foot contour;

(15) Then continuing along the 1000 foot contour in a generally northwesterly direction to the point of intersection with the first unnamed blueline stream;

(16) Then along the unnamed stream in a northerly direction to its point of intersection with the 1200 foot contour;

(17) Then along the 1200 foot contour in a northwesterly direction to its points of intersection with the Rancho Catacula boundary in Section 35, T9N, R5W on the St. Helena, CA, quadrangle map;

(18) Then along the Rancho Catacula boundary in a northwesterly direction approximately 5,350 feet to a northernmost corner of Rancho Catacula, the beginning point on the St. Helena quadrangle map a the northernmost corner of Rancho Catacula in Section 34, T9N, R5W, MDBM.

[T.D. ATF–408, 64 FR 7787, Feb. 17, 1999]

### §9.155 Texas Davis Mountains.

(a) *Name.* The name of the viticultural area described in this section is ''Texas Davis Mountains.''

(b) *Approved map.* The appropriate maps for determining the boundary of the Texas Davis Mountains viticultural area are two U.S.G.S. metric topographical maps of the 1:100 000 scale, titled:

(1) ''Fort Davis, Texas,'' 1985.

(2) ''Mount Livermore, Texas—Chihuahua,'' 1985.

(c) *Boundary.* The Texas Davis Mountains viticultural area is located in Jeff Davis County, Texas. The boundary is as follows:

(1) The beginning point is the intersection of Texas Highway 17 and Farm Road 1832 on the Fort Davis, Texas, U.S.G.S. map;

(2) From the beginning point, the boundary follows Highway 17 in a southeasterly and then southwesterly direction until it reaches the intersection of Limpia Creek with the unnamed stream which flows through Grapevine

Canyon on the Fort Davis, Texas, U.S.G.S. map;

(3) The boundary then proceeds in a straight line in a southwesterly direction until it meets Highway 118 at a gravel pit 1¾ miles southeast of the intersection of Highway 118 and Highway 17;

(4) The boundary then proceeds in a straight line east by southeast until it meets Highway 166 at its junction with Highway 17;

(5) The boundary then follows Highway 166 in a southwesterly direction onto the Mt. Livermore, Texas-Chihuahua, U.S.G.S. map;

(6) The boundary then continues to follow Highway 166 in a westerly direction;

(7) The boundary then continues to follow Highway 166 as it turns in a northerly and then northeasterly direction to the point where it meets Highway 118;

(8) The boundary then follows Highway 118 in a northerly direction until it reaches a point where it intersects with the 1600 meter contour line, just north of Robbers Roost Canyon;

(9) The boundary then proceeds in a straight line due east for about two miles until it reaches the 1600 meter contour line to the west of Friend Mountain;

(10) The boundary then follows the 1600 meter contour line in a northeasterly direction until it reaches the northernmost point of Friend Mountain;

(11) The boundary then diverges from the contour line and proceeds in a straight line east-southeast until it reaches the beginning point of Buckley Canyon, approximately three fifths of a mile;

(12) The boundary then follows Buckley Canyon in an easterly direction to the point where it meets Cherry Canyon;

(13) The boundary then follows Cherry Canyon in a northeasterly direction to the point where it meets Grapevine Canyon on the Mt. Livermore, Texas-Chihuahua, U.S.G.S. map;

(14) The boundary then proceeds in a straight line from the intersection of Cherry and Grapevine Canyons to the peak of Bear Cave Mountain, on the Fort Davis, Texas, U.S.G.S. map;

(15) The boundary then proceeds in a straight line from the peak of Bear Cave Mountain to the point where Farm Road 1832 begins;

(16) The boundary then follows Farm Road 1832 back to its intersection with Texas Highway 17, at the point of beginning.

[T.D. ATF–395, 63 FR 11828, Mar. 11, 1998]

### § 9.156 Diablo Grande.

(a) *Name.* The name of the viticultural area described in this section is ''Diablo Grande''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Diablo Grande viticultural area are the following four U.S.G.S. Quadrangle 7.5 Minute Series (Topographic) maps. They are titled:

(1) Patterson Quadrangle, California—Stanislaus Co., 1953 (Photorevised 1971, Photoinspected 1978);

(2) Copper Mtn. Quadrangle, California—Stanislaus Co., 1953 (Field Check 1956, Aerial Photo 1971);

(3) Wilcox Ridge, California—Stanislaus Co., 1956 (Photorevised 1971);

(4) Orestimba Peak, California—Stanislaus Co., 1955 (Photorevised 1971).

(c) *Boundary.* The Diablo Grande viticultural area is located in the western foothills of Stanislaus County, California. The beginning point is at Reservoir Spillway 780 in section 8, Township 6 South, Range 7 East (T. 6S., R. 7E.) on the Patterson Quadrangle U.S.G.S. map.

(1) Then proceed northwest to Salt Grass Springs to the point where the 1000 foot contour line crosses the northern section line of section 9, T. 6S., R. 6E., on the Copper Mtn., Quadrangle U.S.G.S. map.

(2) Then proceed due south past Copper Mountain in section 16, T. 6S., R. 6E., to Mikes Peak in section 4, T. 7S., R. 6E., on the Wilcox Ridge Quadrangle U.S.G.S. map.

(3) Then proceed due west to Oristimba Creek in section 6, T. 7S., R. 6E.

(4) Then proceed following Orestimba Creek south/southeast and then east/northeast to the point where Orestimba Creek meets Bench Mark #340 in section 28, T. 7S., R. 7E., on the

Orestimba Peak Quadrangle U.S.G.S. map.

(5) Then proceed northwest to the point of beginning at Reservoir Spillway 780 in section 8, T. 6S., R. 7E.

[T.D. ATF–399, 63 FR 33853, June 22, 1998]

**§ 9.157 San Francisco Bay.**

(a) *Name.* The name of the viticultural area described in this section is ''San Francisco Bay.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the San Francisco Bay viticultural area are 43 United States Geological Survey topographic maps. They are titled:

(1) Pacheco Peak, California, scale 1:24,000, dated 1955, Photorevised 1971;

(2) Gilroy Hot Springs, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1971

(3) Mt. Sizer, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1971

(4) Morgan Hill, California, scale 1:24,000, dated 1955, Photorevised 1980

(5) Lick Observatory, California, scale 1:24,000, dated 1955, Photoinspected 1973, Photorevised 1968

(6) San Jose East, California, scale 1:24,000, dated 1961, Photorevised 1980;

(7) Calaveras Reservoir, California, scale 1:24,000, dated 1961, Photorevised 1980;

(8) La Costa Valley, California, scale 1:24,000, dated 1960, Photorevised 1968;

(9) Mendenhall Springs, California, scale 1:24,000, dated 1956, Photoinspected 1978, Photorevised 1971;

(10) Altamont, California, scale 1:24,000, dated 1953, Photorevised 1981;

(11) Byron Hot Springs, California, scale 1:24,000, dated 1953, Photorevised 1968;

(12) Tassajara, California, scale 1:24,000, dated 1953, Photoinspected 1974, Photorevised 1968;

(13) Diablo, California, scale 1:24,000, dated 1953, Photorevised 1980;

(14) Clayton, California, scale 1:24,000, dated 1953, Photorevised 1980;

(15) Honker Bay, California, scale 1:24,000, dated 1953, Photorevised 1980;

(16) Vine Hill, California, scale 1:24,000, dated 1959, Photorevised 1980;

(17) Benicia, California, scale 1:24,000, dated 1959, Photorevised 1980;

(18) Mare Island, California, scale 1:24,000, dated 1959, Photorevised 1980;

(19) Richmond, California, scale 1:24,000, dated 1959, Photorevised 1980;

(20) San Quentin, California, scale 1:24,000, dated 1959, Photorevised 1980;

(21) Oakland West, California, scale 1:24,000, dated 1959, Photorevised 1980;

(22) San Francisco North, California, scale 1:24,000, dated 1956, Photorevised 1968 and 1973;

(23) San Francisco South, California, scale 1:24,000, dated 1956, Photorevised 1980;

(24) Montara Mountain, California, scale 1:24,000, dated 1956, Photorevised 1980;

(25) Half Moon Bay, California, scale 1:24,000, dated 1961, Photoinspected 1978, Photorevised 1968 and 1973;

(26) San Gregorio, California, scale 1:24,000, dated 1961, Photoinspected 1978, Photorevised 1968;

(27) Pigeon Point, California, scale 1:24,000, dated 1955, Photorevised 1968;

(28) Franklin Point, California, scale 1:24,000, dated 1955, Photorevised 1968;

(29) Año Nuevo, California, scale 1:24,000, dated 1955, Photorevised 1968;

(30) Davenport, California, scale 1:24,000, dated 1955, Photorevised 1968;

(31) Santa Cruz, California, scale 1:24,000, dated 1954, Photorevised 1981;

(32) Felton, California, scale 1:24,000, dated 1955, Photorevised 1980;

(33) Laurel, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1968;

(34) Soquel, California, scale 1:24,000, dated 1954, Photorevised 1980;

(35) Watsonville West, California, scale 1:24,000, dated 1954, Photorevised 1980;

(36) Loma Prieta, California, scale 1:24,000, dated 1955, Photoinspected 1978, Photorevised 1968;

(37) Watsonville East, California, scale 1:24,000, dated 1955, Photorevised 1980;

(38) Mt. Madonna, California, scale 1:24,000, dated 1955, Photorevised 1980;

(39) Gilroy, California, scale 1:24,000, dated 1955, Photorevised 1981;

(40) Chittenden, California, scale 1:24,000, dated 1955, Photorevised 1980;

(41) San Felipe, California, scale 1:24,000, dated 1955, Photorevised 1971;

(42) Three Sisters, California, scale 1:24,000, dated 1954, Photoinspected 1978, Photorevised 1971; and

(43) Cedar Mtn., California, scale 1:24,000, dated 1956, Photorevised 1971; Minor Revision 1994.

(c) *Boundary*. The San Francisco Bay viticultural area is located mainly within five counties which border the San Francisco Bay and partly within two other counties in the State of California. These counties are: San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa and partly in Santa Cruz and San Benito Counties. The Santa Cruz Mountains viticultural area is excluded (see 27 CFR 9.31.) The boundaries of the San Francisco Bay viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps, are as follows:

(1) Beginning at the intersection of the 37 degree 00′ North latitude parallel with State Route 152 on the Pacheco Peak Quadrangle.

(2) Then proceed in a northwesterly direction in a straight line to the intersection of Coyote Creek with the township line dividing Township 9 South from Township 10 South on the Gilroy Hot Springs Quadrangle.

(3) Then proceed in a northwesterly direction in a straight line to the intersection of the township line dividing Township 8 South from Township 9 South with the range line dividing Range 3 East from Range 4 East on the Mt. Sizer Quadrangle.

(4) Then proceed in a northwesterly direction in a straight line (across the Morgan Hill Quadrangle) to the intersection of the township line dividing Township 7 South from Township 8 South with the range line dividing Range 2 East from Range 3 East on the Lick Observatory Quadrangle.

(5) Then proceed in a northwesterly direction in a straight line to the intersection of State Route 130 with the township line dividing Township 6 South from Township 7 South on the San Jose East Quadrangle.

(6) Then proceed in a northeasterly direction following State Route 130 to its intersection with the range line dividing Range 1 East from Range 2 East on the Calaveras Reservoir Quadrangle.

(7) Then proceed north following this range line to its intersection with the Hetch Hetchy Aqueduct on the La Costa Valley Quadrangle.

(8) Then proceed in a northeasterly direction in a straight line following the Hetch Hetchy Aqueduct to the western boundary of Section 14 in Township 4 South, Range 2 East on the Mendenhall Springs Quadrangle.

(9) Then proceed south along the western boundary of Section 14 in Township 4 South, Range 2 East to the southwest corner of Section 14 on the Mendenhall Springs Quadrangle.

(10) Then proceed east along the southern boundary of Section 14 in Township 4 South, Range 2 East to the southeast corner of Section 14 on the Mendenhall Springs Quadrangle.

(11) Then proceed south along the western boundary of Section 24 in Township 4 South, Range 2 East to the southwest corner of Section 24 on the Mendenhall Springs Quadrangle.

(12) Then proceed east along the southern boundary of Section 24 in Township 4 South, Range 2 East and Section 19 in Township 4 South, Range 3 East to the southeast corner of Section 19 on the Mendenhall Springs Quadrangle.

(13) Then proceed northeast in a straight line approximately 3.2 miles to BM 1878 in Section 14 on the Cedar Mtn. Quadrangle.

(14) Then proceed north in a straight line approximately 4.2 miles to BM 1600 adjacent to Tesla Road in Section 26, Township 3 South, Range 3 East on the Midway Quadrangle.

(15) Then proceed north-northwest in a straight line approximately 2.8 miles to Patterson Pass, BM 1602, in Section 10, Township 3 South, Range 3 East, on the Altamont Quadrangle.

(16) Then proceed north-northwest in a straight line approximately 2.7 miles to the intersection of the eastern boundary of Section 32 with Highway 580 in Township 2 South, Range 3 East.

(17) Then proceed north-northeast in a straight line approximately 1.1 miles to an unnamed peak, elevation 1147, in Section 28, Township 2 South, Range 3 East.

(18) Then proceed north-northwest in a straight line approximately 1 mile to BM 720 in Section 21, Township 2 South, Range 3 East, and proceed

northwest in a straight line approximately 1.8 miles to the northeast corner of Section 18 on the Byron Hot Springs Quadrangle, Township 2 South, Range 3 East.

(19) Then proceed due west along the northern boundaries of Section 18 and Section 13 (Township 2 South, Range 2 East) to a point approximately 400 feet due south of Brushy Peak on the Byron Hot Springs Quadrangle.

(20) Then proceed due north to Brushy Peak (elevation 1,702) on the Byron Hot Springs Quadrangle.

(21) Then proceed in a northwesterly direction in a straight line (across the Tassajara and Diablo Quadrangles) to Mt. Diablo (elevation 3,849) on the Clayton Quadrangle.

(22) Then proceed in a northwesterly direction in a straight line to Mulligan Hill (elevation 1,438) on the Clayton Quadrangle.

(23) Then proceed in a northwesterly direction in a straight line (across the Honker Bay Quadrangle) to a point marked BM 15 on the shoreline of Contra Costa County on the Vine Hill Quadrangle.

(24) Then proceed west along the shoreline of Contra Costa County and Alameda County (across the Quadrangles of Benicia, Mare Island, Richmond, and San Quentin) to the San Francisco/Oakland Bay Bridge on the Oakland West Quadrangle.

(25) Then proceed west on the San Francisco/Oakland Bay Bridge to the San Francisco County shoreline on the San Francisco North Quadrangle.

(26) Then proceed along the San Francisco, San Mateo, and Santa Cruz County shoreline (across the Quadrangles of San Francisco South, Montara Mountain, Half Moon Bay, San Gregorio, Pigeon Point, Franklin Point, Año Nuevo and Davenport) to the place where Majors Creek flows into the Pacific Ocean on the Santa Cruz Quadrangle.

(27) Then proceed northeasterly along Majors Creek to its intersection with the 400 foot contour line on the Felton Quadrangle.

(28) Then proceed along the 400 foot contour line in a generally easterly/northeasterly direction to its intersection with Bull Creek on the Felton Quadrangle.

(29) Then proceed along Bull Creek to its intersection with Highway 9 on the Felton Quadrangle.

(30) Then proceed along Highway 9 in a northerly direction to its intersection with Felton Empire Road.

(31) Then proceed along Felton Empire Road in a westerly direction to its intersection with the 400 foot contour line on the Felton Quadrangle.

(32) Then proceed along the 400 foot contour line (across the Laurel, Soquel, Watsonville West and Loma Prieta Quadrangles) to its intersection with Highway 152 on the Watsonville East Quadrangle.

(33) Then proceed along Highway 152 in a northeasterly direction to its intersection with the 600 foot contour line just west of Bodfish Creek on the Watsonville East Quadrangle.

(34) Then proceed in a generally east/southeasterly direction along the 600 foot contour line (across the Mt. Madonna and Gilroy Quadrangles), approximately 7.3 miles, to the first intersection of the western section line of Section 30, Township 11 South, Range 4 East on the Chittenden Quadrangle.

(35) Then proceed south along the section line approximately 1.9 miles to the south township line at Section 31, Township 11 South, Range 4 East on the Chittenden Quadrangle.

(36) Then proceed in an easterly direction along the township line (across the San Felipe Quadrangle), approximately 12.4 miles to the intersection of Township 11 South and Township 12 South and Range 5 East and Range 6 East on the Three Sisters Quadrangle.

(37) Then proceed north along the Range 5 East and Range 6 East range line approximately 5.5 miles to Pacheco Creek on the Pacheco Creek Quadrangle.

(38) Then proceed northeast along Pacheco Creek approximately .5 mile to the beginning point.

[T.D. ATF–407, 64 FR 3024, Jan. 20, 1999, as amended by T.D. TTB–48, 71 FR 34525, June 16, 2006]

EFFECTIVE DATE NOTE: At 73 FR 12880, Mar. 11, 2008, §9.157 was amended by revising the introductory text of paragraph (b), removing the word ''and'' at the end of paragraph (b)(42), replacing the period with a semicolon at the end of paragraph (b)(43), adding new

paragraphs (b)(44) through (b)(47), revising the introductory text of paragraph (c), revising paragraph (c)(24), redesignating paragraphs (c)(25) through (c)(38) as (c)(31) through (c)(44), and adding new paragraphs (c)(25) through (c)(30), effective Apr. 10, 2008. For the convenience of the user, the added and revised text is set forth as follows:

**§ 9.157 San Francisco Bay.**

* * * * *

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Francisco Bay viticultural area are 47 1:24,000 Scale USGS topographic maps. They are titled:

* * * * *

(44) Cuttings Wharf, Calif.; 1949; Photorevised 1981;

(45) Sears Point, Calif.; 1951; Photorevised 1968;

(46) Cordelia, Calif.; 1951; Photorevised 1980; and

(47) Fairfield South, Calif.; 1949; Photorevised 1980.

(c) *Boundary.* The San Francisco Bay viticultural area is located mainly within five counties, San Francisco, San Mateo, Santa Clara, Alameda, and Contra Costa, which border the San Francisco Bay. The area also includes portions of three other counties, Solano, Santa Cruz, and San Benito, which are in the general vicinity of the greater San Francisco Bay metropolitan area. The boundary of the San Francisco Bay viticultural area is as described below.

* * * * *

(24) Then proceed west-southwest along the south shoreline of the Suisun Bay and the Carquinez Strait to its intersection with Interstate 680 at the Benicia-Martinez Bridge and BM 66, T3N/R2W, on the Vine Hill Quadrangle.

(25) Then proceed generally north following Interstate 680, crossing over and back on the Benicia Quadrangle map and continuing over the Fairfield South Quadrangle map, to its intersection with the Southern Pacific railroad track at Cordelia, Section 12, T4N/R3W, on the Cordelia Quadrangle map.

(26) Then proceed generally west along the Southern Pacific railroad track to its intersection with the Napa and Solano Counties boundary line in Jameson Canyon at Creston, Section 9, T4N/R3W, on the Cordelia Quadrangle map.

(27) Then proceed generally south-southeast, followed by straight west along the Napa and Solano Counties boundary line; continue straight west, crossing over the Cuttings Wharf Quadrangle map, to its intersection with the east shoreline of Sonoma Creek slough, which coincides with the Highway 37 bridge on the Solano County side of the creek, T4N/R5W, on the Sears Point Quadrangle.

(28) Then proceed generally southeast along the north and east shorelines of San Pablo Bay, also known as the San Pablo Bay National Wildlife Refuge, crossing over the Cuttings Wharf Quadrangle map, to its intersection with the Breakwater line, located within the Vallejo City boundary and 0.7 mile west-southwest of the beacon, T3N/R4W, on the Mare Island Quadrangle.

(29) Then proceed straight south-southwest 1.2 miles to its intersection with the San Pablo Bay shoreline at BM 14, west of Davis Point, T3N/R4W, on the Mare Island Quadrangle.

(30) Then proceed generally south along the contiguous eastern shorelines of San Pablo Bay and San Francisco Bay, crossing over the Richmond and San Quentin Quadrangle maps, to its intersection with the San Francisco/Oakland Bay Bridge on the Oakland West Quadrangle.

* * * * *

**§ 9.158 Mendocino Ridge.**

(a) *Name.* The name of the viticultural area described in this section is ''Mendocino Ridge.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Mendocino Ridge viticultural area are four 1:62,500 scale U.S.G.S. topographical maps. They are titled:

(1) Ornbaun Valley Quadrangle, California, 15 minute series topographic map, 1960;

(2) Navarro Quadrangle, California, 15 minute series topographic map, 1961;

(3) Point Arena Quadrangle, California, 15 minute series topographic map, 1960;

(4) Boonville Quadrangle, California, 15 minute series topographic map, 1959.

(c) *Boundary.* The Mendocino Ridge viticultural area is located within Mendocino County, California. Within the boundary description that follows, the viticultural area starts at the 1200 foot elevation (contour line) and encompasses all areas at or above the 1200 foot elevation line. The boundaries of the Mendocino Ridge viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps, follow.

(1) Beginning at the Mendocino/Sonoma County line at the mouth of

the Gualala River, where the Gualala River empties into the Pacific Ocean, in section 27 of Township 11 North (T11N), Range 5 West (R5W), located in the southeastern portion of U.S.G.S. 15 minute series map, ''Point Arena, California;''

(2) Then following the Mendocino/Sonoma County line eastward to the southeast corner of section 8 in T11N/R13W, on the U.S.G.S. 15 minute map, ''Ornbaun Valley, California;''

(3) Then from the southeast corner of section 8 in T11N/R13W directly north approximately 3+ miles to the southwest corner of section 9 in T12N/R13W;

(4) Then proceeding in a straight line in a northwesterly direction to the southwestern corner of section 14 in T13N/R14W;

(5) Then directly north along the western line of section 14 in T13N/R14W to a point on the western line of section 14 approximately ¼ from the top where the Anderson Valley viticultural area boundary intersects the western line of section 14 in T13N/R14W;

(6) Then in a straight line, in a northwesterly direction, to the intersection of an unnamed creek and the south section line of section 14, T14N/R15W, on the U.S.G.S. 15 minute series map, ''Boonville, California;''

(7) Then in a westerly direction along the south section lines of sections 14 and 15 in T14N/R15W to the southwest corner of section 15, T14N/R15W, on the U.S.G.S. 15 minute series map, ''Navarro, California;''

(8) Then in a northerly direction along the western section lines of sections 15, 10, and 3 in T14N/R15W in a straight line to the intersection of the Navarro River on the western section line of section 3 in T14N/R15W;

(9) Then in a northwesterly direction along the Navarro River to the mouth of the river where it meets the Pacific Ocean in section 5 of T15N/R17W;

(10) Then in a southern direction along the Mendocino County coastline to the Mendocino/Sonoma County line to the beginning point at the mouth of the Gualala River in section 27 of T11N/R15W, on the U.S.G.S. 15 minute series map, ''Point Arena, California.''

[T.D. ATF–392, 62 FR 55516, Oct. 27, 1997]

## §9.159 Yorkville Highlands.

(a) *Name.* The name of the viticultural area described in this section is ''Yorkville Highlands.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yorkville Highlands viticultural area are the following six U.S.G.S. topographical maps (7.5 minute series, 1:24000 scale):

(1) Gube Mountain, Calif., provisional edition 1991;

(2) Big Foot Mountain, Calif., provisional edition 1991;

(3) Cloverdale, Calif., 1960, photoinspected 1975;

(4) Ornbaun Valley Quadrangle, Calif., provisional edition, 1991;

(5) Yorkville, Calif., provisional edition, 1991;

(6) Hopland, Calif., 1960, photoinspected 1975.

(c) *Boundary.* The Yorkville Highlands viticultural area is located in Mendocino County, California. The boundary is as follows:

(1) The beginning point is Benchmark 680, located in Section 30, T. 12 N., R. 13 W., on the Ornbaum Valley quadrangle map;

(2) From the beginning point, the boundary proceeds in a straight line in a northeasterly direction to a point intersecting the North Fork of Robinson Creek and the Section 20, T. 13 N., R. 13 W.;

(3) The boundary then proceeds in a straight line in a southeasterly direction to the summit of Sanel Mountain, located at the southeast corner of Section 30, T. 13 N., R. 12 W., on the Yorkville quadrangle map;

(4) The boundary then proceeds in a straight line in a southeasterly direction until it reaches the southeast corner of Section 15, T. 12 N., R 11 W., on the Hopland quadrangle map;

(5) The boundary then proceeds south, following the eastern boundaries of Sections 22 and 27, T. 12 N., R 11 W., until it reaches the Mendocino-Sonoma County line on the Cloverdale quadrangle map;

(6) The boundary then follows the Mendocino-Sonoma county line west, south and west until it reaches the southwest corner of Section 32, T. 12 N., R. 11 W.;

(7) The boundary then diverges from the county line and proceeds in a northwesterly direction, traversing the Big Foot Mountain quadrangle map, until it reaches the southwest corner of Section 5, T. 12 N., R. 13 W. on the Ornbaun Valley quadrangle map;

(8) The boundary proceeds in a straight line in a northerly direction until it reaches the beginning point at Benchmark 680.

[T.D. ATF–397, 63 FR 16904, Apr. 7, 1998]

### § 9.160 Yountville.

(a) *Name.* The name of the viticultural area described in this section is ''Yountville.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yountville viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) Napa, CA 1951 photorevised 1980;

(2) Rutherford, CA 1951 photorevised 1968;

(3) Sonoma, CA 1951 photorevised 1980;

(4) Yountville, CA 1951 photorevised 1968.

(c) *Boundary.* The Yountville viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Yountville viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps are as follows:

(1) Beginning on the Rutherford quadrangle map at the intersection of the 500 foot contour line with an unnamed stream known locally as Hopper Creek north of the center of Section 3, T6N, R5W, Mount Diablo Meridan (MDM);

(2) Then along the unnamed stream (Hopper Creek) southeasterly, and at the fork in Section 3, northeasterly along the stream to the point where the stream intersects with an unnamed dirt road in the northwest corner of Section 2, T6N, R5W, MDM;

(3) Then in a straight line to the light duty road to the immediate northeast in Section 2, then along the light duty road in a northeasterly direction to the point at which the road turns 90 degrees to the left;

(4) Then northerly along the light duty road 625 feet, then northeasterly (N 40° by 43′) in a straight line 1,350 feet, along the northern property line of Assessor's Parcel Number 27–380–08, to State Highway 29, then continuing in a straight line approximately 500 feet to the peak of the 320 plus foot hill along the western edge of the Yountville hills;

(5) Then east to the second 300 foot contour line, then along said contour line around the Yountville hills to the north to the point at which the 300 foot line exits the Rutherford quadrangle for the second time;

(6) Then, on the Yountville quadrangle map, in a straight line in a northeasterly direction approximately N34° by 30′ E approximately 1,000 feet to the 90 degree bend in the unimproved dirt road shown on the map, then along that road, which coincides with a fence line to the intersection of Conn Creek and Rector Creek;

(7) Then along Rector Creek to the northeast past Silverado Trail to the Rector Reservoir spillway entrance, then south approximately 100 feet to the 400 foot contour line, then southerly along the 400 foot contour line approximately 4200 feet to the intersection with a gully in section 30, T7N, R4W, MDM;

(8) Then southwesterly down the center of the gully approximately 800 feet to the medium duty road known as Silverado Trail, then southeasterly along the Silverado Trail approximately 590 feet to the medium duty road known locally Yountville Cross Road;

(9) Then southwesterly along the Yountville Cross Road (denoted as GRANT BDY on the map) approximately 4,700 feet to the main branch of the Napa River, then following the western boundary of the Stags Leap District viticultural area, first southerly down the center of the Napa River approximately 21,000 feet, then leaving the Napa River northeasterly in a straight line approximately 900 feet to the intersection of the Silverado Trail with an intermittent stream at the 60 foot contour line in T6N, R4W, MDM;

(10) Then along the Silverado Trail southerly approximately 3,200 feet, passing into the Napa quadrangle, to a point which is east of the confluence of Dry Creek with the Napa River; then

west approximately 600 feet to said confluence; then northwesterly along Dry Creek approximately 3,500 feet, passing into the Yountville quadrangle to a fork in the creek; then northwesterly along the north fork of Dry Creek approximately 5,700 feet to the easterly end of the light duty road labeled Ragatz Lane;

(11) Then southwesterly along Ragatz Lane to the west side of State Highway 29, then southerly along Highway 29 by 982 feet to the easterly extension of the north line boundary of Napa County Assessor's parcel number 034–170–015, then along the north line of APN 034–170–015 and its extension westerly 3,550 feet to the dividing line Between R4W and R5W on the Napa quadrangle, then southwesterly approximately 1000 feet to the peak denoted as 564 (which is about 5,500 feet easterly of the northwest corner of the Napa quadrangle); then southwesterly approximately 4,000 feet to the peak northeast of the reservoir gauging station denoted as 835;

(12) Then southwesterly approximately 1,500 feet to the reservoir gauging station, then west to the 400 foot contour line on the west side of Dry Creek, then northwesterly along the 400 foot contour line to the point where the contour intersects the north line of Section 10. T6N, R5W, MDM, immediately adjacent to Dry Creek on the Rutherford, CA map;

(13) Then northwesterly along Dry Creek approximately 6,500 feet to BM503, then northeasterly approximately 3,000 feet to the peak denoted as 1478, then southeasterly approximately 2,300 feet to the beginning of the creek known locally as Hopper Creek, then southeasterly along Hopper Creek approximately 2,300 feet to the point of beginning.

[T.D. ATF–410, 64 FR 13513, Mar. 19, 1999]

### §9.161 Oak Knoll District of Napa Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Oak Knoll District of Napa Valley''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Oak Knoll District of Napa Valley viticultural area are the following United States Geological Survey Quadrangle maps (7.5 Minute Series):

(1) Napa, California, 1951 (Photo revised 1980); and

(2) Yountville, California, 1951 (Photo revised 1968).

(c) *Boundaries.* The Oak Knoll District of Napa Valley viticultural area is located entirely within Napa County, California. The boundaries of the Oak Knoll District of Napa Valley viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

(1) Beginning at the intersection of State Highway 29 and Trancas Road in the city of Napa on the Napa, CA quadrangle map;

(2) Proceed easterly along Trancas Road until it meets the Napa River;

(3) Proceed southerly along the Napa River approximately 3,500 feet to its confluence with Milliken Creek;

(4) Continue northerly up Milliken Creek to its intersection with Monticello Road;

(5) Then proceed westerly along Monticello Road to its intersection with Silverado Trail;

(6) Then proceed northerly and then northeasterly along Silverado Trail to its intersection with an unimproved dirt road located approximately 1,300 feet north of the intersection of Silverado Trail and Oak Knoll Avenue;

(7) From that point, proceed west in a straight line to the confluence of Dry Creek and the Napa River;

(8) Then proceed northwesterly along Dry Creek onto the Yountville map to the fork in the creek; then northwesterly along the north fork of Dry Creek to its intersection with the easterly end of the light-duty road labeled Ragatz Lane;

(9) Proceed southwesterly along Ragatz Lane to the west side of State Highway 29;

(10) Then proceed southerly along the west side of State Highway 29 for 982 feet to a point marking the easterly extension of the northern boundary of Napa County Assessor's parcel number 034–170–015 (marked in part by a fence along the southern edge of the orchard shown along the west side of State Highway 29 just above the bottom of the Yountville map);

(11) Then proceed westerly for 3,550 feet along the northern boundary of Napa County Assessor's parcel number 034–170–015 and its westerly extension to the dividing line between Range 5 West and Range 4 West on the Napa, CA map;

(12) Then proceed southwest in a straight line to the peak marked with an elevation of 564 feet; then south-southwest in a straight line to the peak marked with an elevation of 835 feet;

(13) Then proceed southwest in a straight line approximately 1,300 feet to the reservoir gauging station located on Dry Creek; then proceed west in a straight line across Dry Creek to the 400 foot contour line;

(14) Proceed along the 400-foot contour line in a generally southeasterly direction to its intersection with the line dividing Range 5 West and Range 4 West; then proceed south along that dividing line approximately 2,400 feet to the center of Redwood Road;

(15) Then proceed southerly and then easterly along Redwood Road to the point of beginning at Highway 29.

[T.D. TTB–9, 69 FR 8562, Feb. 25, 2004]

### § 9.162 Sta. Rita Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Sta. Rita Hills''. For purposes of part 4 of this chapter, ''Sta. Rita Hills'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Sta. Rita Hills viticultural area are five United States Geological Survey (USGS) 7.5 Minute Series maps titled:

(1) ''Lompoc, Calif.,'' edition of 1959 (photorevised in 1982).

(2) ''Lompoc Hills, Calif.,'' edition of 1959 (photoinspected 1971).

(3) ''Los Alamos, Calif.,'' edition of 1959.

(4) ''Santa Rosa Hills, Calif.,'' edition of 1959 (photoinspected 1978).

(5) ''Solvang, Calif.,'' edition of 1959 (photorevised 1982).

(c) *Boundary.* The Sta. Rita Hills viticultural area is located in Santa Barbara County, California. The boundary is as follows:

(1) The beginning point is found on the Solvang, California U.S.G.S. Quadrangle map at an unnamed hilltop, elevation 1600 feet, in section 27, T.6N, R. 32W, on the Solvang, Calif., Quadrangle U.S.G.S. map.

(2) Then proceed north and slightly west 2.3 miles to an unnamed hilltop elevation 1174 feet, Section 15, T.6N., R. 32W.

(3) Proceed west and slightly north 1.85 miles to an unnamed hilltop elevation 899 feet within the heart of the Santa Rosa Land Grant, T.7N., R. 32W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(4) Proceed north approximately 2 miles to an unnamed hilltop elevation 1063 feet within the northeastern part of the Santa Rosa Land Grant, T.7N, R. 32W, on the Los Alamos, Calif., Quadrangle U.S.G.S. map.

(5) Proceed northwest 1.1 miles to an unnamed hilltop elevation 961 feet. Section 29, T.7N., R. 32W.

(6) Proceed north and slightly east 1.1 miles to an unnamed elevation 1443 feet. Section 20, T. 7N., R. 32W.

(7) Proceed west 1.4 miles to an unnamed hilltop elevation 1479 feet. Section 24, T.7N., R. 33W.

(8) Proceed north 1.2 miles to an unnamed hilltop elevation 1705 feet. Section 13, T.7N., R. 33W.

(9) Proceed northwest approximately 2 miles to an unnamed hilltop elevation 1543. Section 10, T.7N., R. 33W.

(10) Proceed west and slightly south 1.6 miles to an unnamed hilltop elevation 935 feet within the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(11) Proceed south by southwest 1.5 miles to an unnamed hilltop elevation 605 feet in the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(12) Proceed west by southwest approximately 2 miles to the point where California Highway 246 intersects with the 200-foot elevation contour line comprising the western border of the Santa Rita Hills, within the Santa Rosa Land Grant. T.7N., R. 34W, on the Lompoc, Calif., Quadrangle U.S.G.S. map.

(13) Proceed following the 200 foot elevation contour line south along the western border of the Santa Rita Hills to the extreme southern tip of the 200 foot elevation contour that is .6 miles due west of an unnamed hilltop 361 feet

in elevation in the Canada de Salispuedes Land Grant. T.6N., R. 34W.

(14) Proceed southeast 2.35 miles to an unnamed hilltop elevation 1070 feet. Section 18, T.6N., R. 33W, on the Lompoc Hills, Calif., Quadrangle U.S.G.S. map.

(15) Proceed east and slightly south 1.95 miles to an unnamed hilltop elevation 921 feet. Section 16, T.6N., R. 33W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(16) Proceed east by southeast 1.35 miles to an unnamed hilltop elevation 1307 feet at intersection between Sections 22 and 23. T.6N., R. 33W.

(17) Proceed east 2.35 miles to an unnamed hilltop elevation 1507 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(18) Proceed east by southeast 2.1 miles to an unnamed hilltop elevation 1279 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(19) Then proceed east by southeast 1.45 miles to the point of the beginning.

(d) From July 30, 2001, until January 5, 2006, this viticultural area was named ''Santa Rita Hills''. Effective January 6, 2006, the name of this viticultural area is ''Sta. Rita Hills''. Existing certificates of label approval showing ''Santa Rita Hills'' as the appellation of origin are revoked by operation of this regulation on January 6, 2007.

[T.D. ATF–454, 66 FR 29479, May 31, 2001, as amended by T.D. TTB–37, 70 FR 72713, Dec. 7, 2005]

### §9.163 Salado Creek.

(a) The name of the viticultural area described in this section is ''Salado Creek''.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Salado Creek viticultural area are two 1:24,000 Scale USGS topographic maps. They are titled:

(1) Patterson, California Quadrangle,—Stanislaus Co., 7.5 Minute Series, edition of 1953; photorevised 1971, photoinspected 1978; and

(2) Crows Landing, California Quadrangle,—Stanislaus Co., 7.5 Minute Series, edition of 1952, photorevised 1980.

(c) *Boundaries.* The Salado Creek viticultural area is located in Stanislaus County, California, just southwest of the town of Patterson. The Salado Creek viticultural area boundary is as follows:

(1) Beginning on the Patterson Quadrangle map, section 19, T6S, R8E, at the intersection of Interstate Highway 5 and Fink Road, proceed northwest for 4.25 miles along Interstate 5 to its junction with an unnamed light duty road in section 35, T5S, R7E; then

(2) Follow the unnamed light duty road for approximately 0.45 miles, going east across the California Aqueduct and then north, to the road's intersection with the light duty road atop the levee on the east bank of the Delta-Mendota Canal in section 35, T5S, R7E; then

(3) Proceed southeast approximately 0.3 miles along the Delta-Mendota Canal levee road to its intersection with an unnamed unimproved road in section 35, T5S, R7E; then

(4) Proceed north and then east on the unimproved road for approximately 0.4 mile to its intersection with Baldwin Road and continue east on Baldwin Road approximately one mile, crossing Salado Creek, to the Baldwin Road's intersection with Ward Avenue at the eastern boundary line of section 36, T5S, R7E; then,

(5) Proceed north on Ward Avenue approximately 400 feet to its intersection with the 2nd Lift drainage canal in section 31, T5S, R8E; then

(6) Follow the 2nd Lift canal southeast approximately 0.75 miles to its intersection with Elfers Road in section 31, T5S, R8E; then

(7) Proceed east on Elfers Road approximately for 0.45 miles, crossing onto the Crows Landing Quadrangle map, to its intersection with an unnamed, unimproved road on the south side of Elfers Road that also marks the western boundary of section 6, T6S, R8E; then

(8) Proceed straight south on the unimproved road approximately one mile to its intersection with Marshall Road in section 6, T6S, R8E; then

(9) Follow Marshall Road straight west 1.1 miles, crossing onto the USGS Patterson map, to its intersection with Ward Avenue in section 6, T6S, R8E; then

(10) Proceed south 1.65 miles on Ward Avenue to its intersection with the

California Aqueduct, then continue generally south approximately 1.4 miles along the aqueduct to its intersection with Fink Road in section 19, T6S, R8E; then

(11) Follow Fink Road northwest for approximately 0.5 miles, returning to the beginning point at the intersection of Interstate Highway 5 and Fink Road in section 19, T6S, R8E.

[T.D. TTB–13, June 29, 2004]

### § 9.164 River Junction.

(a) *Name.* The name of the viticultural area described in this section is ''River Junction.''

(b) *Approved maps.* The appropriate maps for determining the boundaries of the River Junction viticultural area are the following two 1:24,000 Scale U.S.G.S. topographical maps. They are titled:

(1) Ripon, CA 1969, photorevised 1980;

(2) Vernalis, CA 1969, photorevised 1980.

(c) *Boundaries.* The River Junction AVA is located in southern San Joaquin County, California. The boundaries are as follows:

(1) Beginning on the Vernalis, CA quadrangle map at the intersection of the secondary highway Airport Way and the San Joaquin River levee, near Benchmark 35 in T3S/R6E;

(2) Then in a southeasterly direction, follow the levee along the San Joaquin River onto the Ripon, CA quadrangle map;

(3) Then in a northerly direction around Sturgeon Bend in section 18 T3S/R7E;

(4) Then continuing in a generally southeasterly, then northeasterly direction along the levee adjoining the Stanislaus River through sections 19, 20 and 17 to the point where the levee intersects sections 17 and 8;

(5) Then continuing in a northerly direction along the levee in section 8 for approximately 1,000 feet;

(6) Then in a straight line in a northwesterly direction for approximately 100 feet to the intersection with Division Road;

(7) Then in a southwesterly, then northwesterly direction along Division Road through sections 8, 17, 18 and 7 to the intersection with the secondary highway Airport Way;

(8) Then in a southwesterly direction along Airport Way onto the Vernalis quadrangle map to the starting point at the intersection of Airport Way and the San Joaquin River levee T3S/R6E.

[T.D. ATF–452, 66 FR 23592, May 9, 2001]

### § 9.165 Applegate Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Applegate Valley.''

(b) *Approved maps.* The appropriate map for determining the boundaries of the Applegate Valley viticultural area is one U.S.G.S. map titled ''Medford, Oregon; California'' (NK 10–5) scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Applegate Valley viticultural area is located in the State of Oregon within Jackson and Josephine Counties, and entirely within the existing Rogue Valley viticultural area. The boundaries are as follows:

(1) Beginning at the confluence of the Applegate River with the Rogue River approximately 5 miles west of Grants Pass, the boundary proceeds due west to the boundary of the Siskiyou National Forest north of Dutcher Creek;

(2) Then in a straight line in a southerly and westerly direction along the boundary of the Siskiyou National Forest to Highway 199;

(3) Then in a straight line easterly to the peak of Roundtop Mountain (4693 feet);

(4) Then in a straight line easterly and southerly to the peak of Mungers Butte;

(5) Then in a straight line southerly and westerly to Holcomb Peak;

(6) Then in a generally southeasterly direction along the eastern boundary of the Siskiyou National Forest until it joins the northern boundary of the Rogue River National Forest;

(7) Then easterly along the northern boundary of the Rogue River National forest to a point due south of the peak of Bald Mountain;

(8) Then due north to the peak of Bald Mountain (5635 feet);

(9) Then in a straight-line northerly and westerly to the lookout tower on Anderson Butte;

(10) Then in a straight line northerly and westerly to the peak of an unnamed mountain with an elevation of 3181 feet;

(11) Then in a straight line northerly and westerly to the peak of Timber Mountain;

(12) Then in a straight line westerly and southerly to the middle peak of Billy Mountain;

(13) Then, northerly and westerly by straight lines connecting a series of five unnamed peaks with elevations of approximately 3600, 4000, 3800, 3400, and 3800 feet, respectively;

(14) Then in a straight line northerly and easterly to Grants Pass Peak;

(15) Then in a straight line westerly to Jerome Prairie;

(16) Then in a straight line northwesterly to the confluence of the Applegate River and the Rogue River and the point of the beginning.

[T.D. ATF–434, 65 FR 78099, Dec. 14, 2000]

### §9.166 Diamond Mountain District.

(a) *Name.* The name of the viticultural area described in this section is ''Diamond Mountain District.''

(b) *Approved map.* The appropriate maps for determining the boundary of the Diamond Mountain District viticultural area are two 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) Mark West Springs, CA 1993

(2) Calistoga, CA 1993.

(c) *Boundaries.* The viticultural area is located in Napa County, California. The beginning point is where the boundary between Napa and Sonoma counties intersects Petrified Forest Road in Section 3 of Township 8 North, Range 7 West, Mount Diablo Base and Meridian on the Mark West Springs map;

(1) Then north and east along Petrified Forest Road approximately 1.9 miles to the point where it intersects the 400-foot contour just east of Section 35 of Township 9 North, Range 7 West, Mount Diablo Base and Meridian, in the Mallacomes land grant;

(2) Then generally east southeast along the 400-foot contour approximately 6.5 miles to the point where it intersects Ritchey Creek in Section 3 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(3) Then west southwest along Ritchey Creek approximately 2.2 miles to the point where it intersects the boundary between Sections 17 and 20 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(4) Then due west in a straight line along the section boundary approximately 0.8 miles to the point where it intersects the boundary between Napa and Sonoma Counties between Sections 18 and 19 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(5) Then generally northwest along the boundary between Napa and Sonoma Counties approximately 4.2 miles to the point where it intersects Petrified Forest Road, to the point of beginning.

[T.D. ATF–456, 66 FR 29698, June 1, 2001]

### §9.167 Red Mountain

(a) *Name.* The name of the viticultural area described in this section is ''Red Mountain.''

(b) *Approved maps.* The appropriate map for determining the boundaries of the Red Mountain viticultural area is one U.S.G.S. map titled ''Benton City, Washington'' 7.5 minute series (topographic), (1974).

(c) *Boundaries.* The Red Mountain viticultural area is located within Benton County, Washington, entirely within the existing Yakima Valley viticultural area. The boundaries are as follows:

(1) The northwest boundary beginning on this map at the intersection of the 560-foot elevation level and the aqueduct found northwest of the center of section 32.

(2) Then following the aqueduct east to its endpoint at an elevation of approximately 650-feet, again in section 32.

(3) From this point in a straight line southeast to the 1173-foot peak, located southeast of the center of section 32.

(4) From this peak southeast in a straight line across the lower southwest corner of section 33 to the 1253-foot peak located due north of the center of section 4.

(5) Then in a straight line southeast to the 1410-foot peak located in the southwest corner of section 3.

(6) From this peak in a straight line southeast to the border of sections 10 and 11 where the power line crosses these two sections. This intersection is northeast of the center of section 10

and northwest of the center of section 11.

(7) From this point in a straight line south following the border of sections 10 and 11 to the corner of sections 10,11,15, and 14. This point has an elevation of 684 feet.

(8) From this point southwest in a diagonal to the 700-foot elevation line and then following this 700-foot elevation through Section 15 and into section 16.

(9) Then following the 700-foot elevation line southwest ¼ mile in a southwest diagonal until it meets the creek bed.

(10) Following the creek bed southwest through section 16, across the extreme southeast corner of section 17 and into the northeast corner of section 20 to a point where the creek bed meets the 560-foot elevation point.

(11) From this 560-foot elevation point, running north along this elevation line through section 17, through section 8, through section 5 and through section 32 until meeting the beginning point at the aqueduct in section 32.

[T.D. ATF–448, 66 FR 18545, Apr. 10, 2001]

## § 9.168 Fair Play.

(a) *Name.* The name of the viticultural area described in this section is ''Fair Play.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Fair Play viticultural area are three United States Geological Survey (U.S.G.S.) topographic maps (7.5 minute series; quadrangles). They are titled:

(1) Omo Ranch, California, 1952 (photorevised 1973);

(2) Aukum, California, 1952 (photorevised 1973);

(3) Camino, California, 1952 (photorevised 1973).

(c) *Boundaries.* The Fair Play viticultural area is located in El Dorado County, California and is located entirely within the existing Sierra Foothills and El Dorado viticultural areas. The boundary for Fair Play is as follows:

(1) The beginning point of the boundary is the intersection of the Middle Fork of the Cosumnes River and the U.S.G.S. map section line between Sections 26 and 27, T. 9 N., R. 11 E. (''Aukum'' Quadrangle);

(2) From the beginning point, the boundary follows northeast along the Middle Fork of the Cosumnes River until it meets an unnamed medium-duty road (Mt. Aukum Road or El Dorado County Road E–16) just as it crosses onto the ''Camino'' Quadrangle map;

(3) The boundary continues then northeast along Mt. Aukum Road to its intersection with Grizzly Flat Road at the town of Somerset (''Camino'' Quadrangle);

(4) The boundary continues east along Grizzly Flat Road to its intersection with the 2200'' contour line.

(5) The boundary continues along the 2200'' contour line north and then east until it intersects with the U.S.G.S. map section line between Sections 9 and 10, T. 9 N., R. 12 E. (''Camino'' Quadrangle):

(6) The boundary then proceeds south along the U.S.G.S. map section line between Sections 9 and 10, T. 9 N., R. 12 E., to its intersection with the Middle Fork of the Cosumnes River (''Aukum'' Quadrangle);

(7) The boundary then follows along the Middle Fork of the Cosumnes River in a southeasterly direction onto the ''Omo'' Quadrangle map and continues until it meets the range line between R. 12 E. and R. 13 E. (''Aukum'' Quadrangle and ''Omo Ranch'' Quadrangle);

(8) The boundary then follows south along the range line between R. 12 E. and R. 13 E. to its intersection with an unnamed medium-duty road in T. 8 N. (Omo Ranch Road) (''Omo Ranch'' Quadrangle);

(9) The boundary then continues west in a straight line approximately 0.3 miles to the point where Cedar Creek intersects with the 3200-foot contour line, within Section 1, T. 8 N.,R. 12 E. (''Omo Ranch'' Quadrangle);

(10) The boundary follows along Cedar Creek west and then southwest until it empties into Scott Creek (''Aukum'' Quadrangle);

(11) The boundary then proceeds west along Scott Creek until it empties into the South Fork of the Cosumnes River (''Aukum'' Quadrangle);

(12) The boundary continues west along the South Fork of the Cosumnes

River to its intersection with the U.S.G.S. map section line between Sections 14 and 15, T. 8 N., R. 11 E. (''Aukum'' Quadrangle); and

(13) Finally, the boundary follows north along the section line back to its intersection with the Middle Fork of the Cosumnes River, the point of the beginning. (''Aukum'' Quadrangle).

[T.D. ATF–440, 66 FR 11539, Feb. 26, 2001]

### §9.169 Red Hills Lake County.

(a) *Name.* The name of the viticultural area described in this section is ''Red Hills Lake County''.

(b) *Approved Map.* The appropriate maps for determining the boundary of the Red Hills Lake County viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) Clearlake Highlands Quadrangle, CA—Lake Co. 1958, photorevised 1975;

(2) Lower Lake Quadrangle, CA—Lake Co. 1958, photorevised 1975;

(3) Whispering Pines Quadrangle, CA 1958, photoinspected 1975;

(4) Kelseyville Quadrangle, CA—Lake Co. 1959, photorevised 1975.

(c) *Boundary.* The Red Hills Lake County viticultural area is located entirely within the Clear Lake viticultural area of Lake County, California, on the southwestern shore of Clear Lake, between the towns of Lower Lake and Kelseyville, California. The Red Hills Lake County viticultural area boundary is as follows:

(1) Beginning on the Clearlake Highlands map at the intersection of the Clear Lake shoreline, south of Slater Island, with the common boundary line between sections 3 and 4, T12N, R7W, proceed approximately 0.1 miles due south along the common section line to its intersection with the 1,400-foot contour line, section 3, T12N, R7W (Clearlake Highlands Quadrangle); then

(2) Proceed east-southeasterly along the meandering 1,400-foot contour line onto the Lower Lake map south of Anderson Flat, then reverse direction with the contour line and continue westerly, leaving the Lower Lake map, to the 1,400-foot contour line's intersection with Seigler Canyon Creek, section 10, T12N, R7W (Clearlake Highlands Quadrangle); then

(3) Proceed generally west then south along Seigler Canyon Creek to its confluence with Perini Creek, section 9, R7W, T12N, and continue southerly about 1.2 miles along Perini Creek to its intersection with the 1,800-foot contour line, section 16, R7W, T12N (Clearlake Highlands Quadrangle); then

(4) Continue southerly along the 1,800-foot contour line, crossing on to the Whispering Pines map, and, turning westerly, continue along the 1,800-foot contour line to its intersection with Copsey Creek, section 28, T12N, R7W (Whispering Pines Quadrangle); then

(5) Proceed generally west-northwest along Copsey Creek to its headwaters in section 29, then continue straight west-southwesterly to the headwaters of Bad Creek at its intersection with the section 30 eastern boundary line, and, from that point, proceed approximately 0.1 miles due west to Big Canyon Road, section 30, T12N, R7W (Whispering Pines Quadrangle); then

(6) Proceed about 1.1 miles north-northwesterly along Big Canyon Road, leaving the Whispering Pines map, to its intersection with Loch Lomond Road, northeast of Hoberg Airport, section 19, T12N, R7W (Clearlake Highlands Quadrangle); then

(7) Proceed approximately 1.5 miles westerly then southerly along Loch Lomond Road, returning to the Whispering Pines map, passing through Seigler Springs, to the road's first intersection with the 2,640-foot contour line, northwest of Bonanza Springs, section 25, T12N, R8W (Whispering Pines Quadrangle); then

(8) From that point, proceed about 1.9 miles northwesterly in a straight line, passing through the peak of Seigler Mountain, elevation 3,692 feet, and returning to the Clearlake Highlands map, to the line's intersection with Salmina Road, section 23, T12N, R8W (Clearlake Highlands Quadrangle); then

(9) Proceed 1.25 miles northwesterly along Salmina Road to its intersection with State Highway 175, section 15, T12N, R8W (Clearlake Highlands Quadrangle); then

(10) Proceed south 0.6 miles on State Highway 175 to its intersection with the section 15 southern boundary line,

T12N, R8W (Clearlake Highlands Quadrangle); then

(11) From that point, proceed about 1 mile in a straight northwesterly line to the peak of Mt. Hannah, elevation 3,978 feet, section 16, T12N, R8W (Clearlake Highlands Quadrangle); then

(12) From the peak of Mt. Hannah, proceed about 0.8 miles in a westerly straight line, crossing on to the Kelseyville map, to the intersection of the 3,000-foot contour line with the section 17 east boundary line, and continue for about 0.45 miles along the same line of direction to the 2,800-foot contour line east of Boggs Lake, section 17, T12N, R8W (Kelseyville Quadrangle); then

(13) Proceed northerly and then westerly along the 2,800-foot contour line around Boggs Lake to the contour line's intersection with Harrington Flat Road, section 18, T12N, R8W (Kelseyville Quadrangle); then

(14) Proceed about 0.4 miles northwesterly along Harrington Flat Road to its intersection with Bottle Rock Road, and continue north-northwesterly along Bottle Rock Road for about 4 miles to its intersection with Cole Creek Road to the west and an unimproved road to the east, section 25, T13N, R9W (Kelseyville Quadrangle); then

(15) Proceed east and then northeasterly on the unimproved road about 0.4 miles to its intersection with the east-west State Highway 29/175 and a northerly unimproved road, section 25, T13N, R9W (Kelseyville Quadrangle); then

(16) From that point, cross State Highway 29/175 and proceed about 1 mile northwesterly along the unnamed, unimproved road to its intersection with an east-west unimproved road just north of the common boundary line between sections 24 and 25, then go west a short distance on that road to the point where the road turns north along the common boundary between sections 23 and 24; then

(17) Proceed 0.5 miles north along the unimproved road marking the common boundary between sections 23 and 24 to the road's intersection with Wilkinson Road and continue straight north 0.25 miles on Wilkinson Road to its intersection with the 1,600-foot elevation line at the section 24 western boundary line, T13N, R9W (Kelseyville Quadrangle); then

(18) Proceed about 1.35 miles straight easterly to the 2,493 benchmark located along an unnamed light-duty road known locally as Konocti Road, section 19, T13N, R8W (Kelseyville Quadrangle); then

(19) Proceed less than 0.2 miles easterly and then northerly along the unnamed light-duty road to its intersection with the 2,600-foot elevation line, section 19, T13N, R8W (Kelseyville Quadrangle); then

(20) Proceed about 3.0 miles generally east along the 2,600-foot elevation line to its intersection, north of Bell Mine, with an unnamed intermittent stream near the section 20 east boundary line, T13N, R8W (Kelseyville Quadrangle); then

(21) Proceed about 1.2 miles in a straight east-northeasterly line to the intersection of Konocti Bay Road and Soda Bay Road, and continue due east to the shore of Clear Lake, section 22, T13N, R8W (Clearlake Highlands Quadrangle); then

(22) Proceed southeasterly along the shoreline of Clear Lake, returning to the point of beginning at the shoreline's intersection with the common boundary line between sections 3 and 4, T12N, R7W (Clearlake Highlands Quadrangle).

[T.D. TTB–15, 69 FR 41754, July 12, 2004]

## § 9.170 Long Island.

(a) *Name.* The name of the viticultural area described in this section is ''Long Island.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Long Island viticultural area are three United States Geological Survey (U.S.G.S.) topographic maps (Scale: 1:250,000). They are titled:

(1) ''New York, N.Y.; N.J.; Conn.,'' 1960 (revised 1979);

(2) ''Hartford, Conn.; N.Y.; N.J.; Mass.,'' 1962 (revised 1975); and

(3) ''Providence, R.I.; Mass.; Conn.; N.Y.,'' 1947 (revised 1969).

(c) *Boundaries.* The Long Island viticultural area includes approximately 1,170 square miles or 749,146 acres and is made up of the counties of

Nassau and Suffolk, New York, including all off shore islands in those counties.

[T.D. ATF–453, 66 FR 26791, May 15, 2001]

### §9.171 San Bernabe.

(a) *Name.* The name of the viticultural area described in this section is ''San Bernabe''.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Bernabe viticultural area are four 1:24,000 scale, USGS topographic maps. They are titled:

(1) Thompson Canyon Quadrangle, California-Monterey County, 1949 (photorevised 1984);

(2) San Lucas Quadrangle, California-Monterey County, 1949 (photorevised 1984);

(3) Espinosa Canyon Quadrangle, California-Monterey County, 1949 (photorevised 1979); and

(4) Cosio Knob Quadrangle, California-Monterey County, 1949 (photorevised 1984);

(c) *Boundary.* The San Bernabe viticultural area is located in central Monterey County, south of King City, California, and west of U.S. Highway 101.

(1) The point of beginning on the Thompson Canyon Quadrangle is benchmark 304, located one-half mile southwest of King City, along the Salinas River, in Township 20 South (T20S) and Range 8 East (R8E). Proceed southeast in a straight line for 2.35 miles to benchmark 304, at the intersection of a trail and the 300–foot contour line, between U.S. Highway 101 and the Salinas River, in T20S and R8E (San Lucas Quadrangle); then

(2) Proceed southeast in a straight line for 2.9 miles to benchmark 336, between U.S. Highway 101 and the Salinas River, in T20S and R8E (San Lucas Quadrangle); then

(3) Proceed southeast in a straight line for 3 miles to benchmark 340, between U.S. Highway 101 and the Salinas River, in T21S and R9E (San Lucas Quadrangle); then

(4) Proceed south in a straight line for 0.8 mile to the intersection of the Salinas River and the Highway 198 bridge, in T21S and R9E (Espinosa Canyon Quadrangle); then

(5) Proceed southwest along Highway 198 for 0.6 mile to its intersection with an unnamed light duty road, in T21S and R9E (Espinosa Canyon Quadrangle); then

(6) Proceed northwest, followed by southwest, about 1.2 miles along the meandering, unnamed, light duty road to its intersection with the fork of an intermittent stream, in T21S and R8E (Espinosa Canyon Quadrangle); then

(7) Proceed southwest in a straight line for 0.6 mile to the 595-foot peak, Section 13, in T21S and R8E (Espinosa Canyon Quadrangle); then

(8) Proceed southwest in a straight line for 1.3 miles to the 788-foot peak, section 23, in T21S and R8E (Espinosa Canyon Quadrangle); then

(9) Proceed southwest in a straight line for 0.7 mile to the intersection of the unimproved road and jeep trail, east of the 73-degree longitudinal line, section 26, in T21S and R8E (Espinosa Canyon Quadrangle); then

(10) Proceed northwest in a straight line for 3.2 miles to the northwest corner of section 16, in T21S and R8E (Espinosa Canyon Quadrangle); then

(11) Proceed southwest in a straight line for 1.5 miles to the northeast corner of section 19, in T21S and R8E (Cosio Knob Quadrangle); then

(12) Proceed southwest in a straight line for 2.2 miles to the southwest corner of section 24, in T21S and R7E (Cosio Knob Quadrangle); then

(13) Proceed north in a straight line for 2 miles to the northwest corner of section 13, in T21S and R7E (Cosio Knob Quadrangle); then

(14) Proceed east in a straight line for 1 mile to the northeast corner of section 13, in T21S and R7E (Cosio Knob Quadrangle); then

(15) Proceed north in a straight line for 2 miles, along the R7E and R8E common boundary line, to the northwest corner of section 6, in T21S and R8E (Thompson Canyon Quadrangle); then

(16) Proceed east in a straight line for 0.1 mile to the southwest corner of section 31 and continue diagonally to the northeast corner of section 31, in T20S and R8E (Thompson Canyon Quadrangle); then

(17) Proceed west in a straight line for 2 miles to the southwest corner of

section 25, in T20S and R7E (Thompson Canyon Quadrangle); then

(18) Proceed due north in a straight line for 0.1 mile to the intersection with a light duty road, named Pine Canyon Road, in section 25, and continue northeast along that road for 3.2 miles to its intersection with an unnamed secondary highway, north of benchmark 337, section 18, in T20S and R8E (Thompson Canyon Quadrangle); then

(19) Proceed northwest along the unnamed secondary highway for 0.3 mile to its intersection with U.S. Highway 101, in T20S and R8E (Thompson Canyon Quadrangle); then

(20) Proceed northeast along U.S. Highway 101 for 0.7 mile to benchmark 304, returning to the point of beginning (Thompson Canyon Quadrangle).

[T.D. TTB–14, 69 FR 38836, June 29, 2004]

### § 9.172 West Elks.

(a) *Name.* The name of the viticultural area described in this section is ''West Elks.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the West Elks viticultural area are four United States Geological Survey (U.S.G.S.) topographic maps (Scale: 1:250,000). They are titled:

(1) Lazear Quadrangle (Colorado-Delta Co. 1955 (photorevised 1978));

(2) Hotchkiss Quadrangle (Colorado-Delta Co. 1965 (photorevised 1979));

(3) Paonia Quadrangle (Colorado-Delta Co. 1965 (photorevised 1979); and

(4) Bowie Quadrangle (Colorado-Delta Co. 1965 (photorevised 1978).

(c) *Boundaries.* The West Elks viticultural area is located in eastern Delta County, Colorado. The beginning point is found on the ''Bowie Quadrangle'' U.S.G.S. map at the ¼ corner common to Sections 19 and 20, Township 13 South, Range 91 West (T. 13 S., R. 91 W.);

(1) The boundary proceeds east following the center subdivision lines of Sections 20 and 21 to its intersection with Colorado Highway 133;

(2) Then northeasterly following Colorado Highway 133 to its intersection with the N-S center subdivision line of Section 14, T. 13 S., R. 91 W., near Juanita Junction;

(3) Then south following the center subdivision line to its intersection with the North Fork of the Gunnison River;

(4) Then southwesterly following the North Fork of the Gunnison River to its intersection with the Stewart Ditch in the extreme southern part of Section 15, T. 13 S., R. 91 W.;

(5) Then southwesterly following the Stewart Ditch to its intersection with the section line common to Sections 21 and 28, T. 13 S., R. 91 W.;

(6) Then east following the section line common to Sections 21 and 28 to its intersection with the 6000 foot contour;

(7) Then southerly following the 6000 foot contour to its second intersection with the section line common to Sections 3 and 4, T. 14 S., R. 91 W., located on the Paonia, Colo. U.S.G.S. map;

(8) Then south following the section line common to Sections 3 and 4 to its intersection with the 6200 foot contour;

(9) Then southerly following the 6200 foot contour to its intersection with the section line common to Sections 16 and 17, T. 14 S., R. 91 W.;

(10) Then south following the section line common to Sections 16 and 17 to the point of intersection of Sections 16, 17, 20 and 21;

(11) Then west following the section line common to Sections 17 and 20 to the point of intersection of Sections 17, 18, 19 and 20;

(12) Then south following the section line common to Sections 19 and 20 to the N1/16 corner common to Sections 19 and 20;

(13) Then west following the subdivision line across Section 19 to the N1/16 corner common to Section 19, T. 14 S., R. 91 W. and Section 24, T, 14 S., R. 92 W.;

(14) Then south following the range line between R. 91 W. and R. 92 W. to the point of intersection between Sections 19 and 30, T. 14 S., R. 91 W. and Sections 24 and 25, T. 14 S., R. 92 W.;

(15) Then west following the section line common to Sections 24 and 25 to the point of intersection between Sections 23, 24, 25 and 26, located on the Hotchkiss, Colo. U.S.G.S. map;

(16) Then south following the section line common to Sections 25 and 26 to the point of intersection between Sections 25, 26, 35 and 36;

(17) Then west following the section lines common to Sections 26 and 35 and Sections 27 and 34 to the point of intersection between Sections 27, 28, 33 and 34;

(18) Then south following the section line common to Sections 33 and 34 to the point of intersection between Sections 33 and 34, T. 14 S., R. 92 W. and Sections 3 and 4, T. 15 S., R. 92 W.;

(19) Then west following the township line between T. 14 S. and T. 15 S. approximately three miles to the point of intersection between Section 31, T. 14 S., R. 92 W., Section 6, T. 15 S., R. 92 W., Section 1, T. 15 S., R. 93 W., and Section 36, T. 14 S., R. 93 W.;

(20) Then south following the range line between R. 92 W. and R. 93 W. to the point of intersection between Sections 6 and 7, T. 15 S., R. 92 W. and Sections 1 and 12, T. 15 S., R. 93 W.;

(21) Then west following the section lines common to Sections 1 and 12 and Sections 2 and 11 to its intersection with the North Fork of the Gunnison River, located on the Lazear, Colo. U.S.G.S. map;

(22) Then westerly following the North Fork of the Gunnison River to its intersection with Big Gulch in the extreme northeastern corner of Section 6, T. 15 S., R. 93 W.;

(23) Then northerly following Big Gulch to its intersection with the section line common to Sections 17 and 18, T. 14 S., R. 93 W.;

(24) Then north following the section lines common to Sections 17 and 18, Sections 7 and 8, and Sections 5 and 6 to the point of intersection between Sections 5 and 6, T. 14 S., R. 93 W. and Sections 31 and 32, T. 13 S., R. 93 W.;

(25) Then east following the township line between T. 13 S. and T. 14 S. approximately two miles to the point of intersection between Sections 3 and 4, T. 14 S., R. 93 W. and Sections 33 and 34, T. 13 S., R. 93 W.;

(26) Then south following the section line common to Sections 3 and 4 to the point of intersection between Sections 3, 4, 9 and 10;

(27) Then east following the section lines for approximately 6 miles to the point of intersection between Sections 3, 4, 9 and 10, T. 14 S., R. 92 W., located on the Hotchkiss, Colo. U.S.G.S. map;

(28) Then north following the section line common to Sections 3 and 4 to the point of intersection between Sections 3 and 4, T. 14 S., R. 92 W. and Sections 33 and 34, T. 13 S., R. 92 W.;

(29) Then east following the township line between T. 13 S. and T. 14 S. to its intersection with the Fire Mountain Canal in the southwestern corner of Section 35, T. 13 S., R. 92 W.;

(30) Then northeasterly following the Fire Mountain Canal through the extreme northwest corner of the Paonia, Colo. U.S.G.S. map to its intersection with the section line common to Sections 29 and 30, T. 13 S., R. 91 W., located on the Bowie, Colo. U.S.G.S. map;

(31) Then north following the section lines common to Sections 29 and 30 and Sections 19 and 20 to the 1/4 corner common to Sections 19 and 20, the point of beginning.

[T.D. ATF–445, 66 FR 13430, Mar. 6, 2001]

### §9.173 Rockpile.

(a) *Name.* The name of the viticultural area described in this section is ''Rockpile''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Rockpile viticultural area are four 1:24,000 Scale U.S.G.S. topographic maps. They are titled:

(1) Warm Springs Dam Quadrangle, CA—Sonoma Co. 1978;

(2) Cloverdale Quadrangle, CA 1975;

(3) Tombs Creek Quadrangle, CA—Sonoma Co. 1978; and

(4) Big Foot Mountain Quadrangle, CA 1991.

(c) *Boundary.* The Rockpile viticultural area is located in northwestern Sonoma County, California. The boundary encircles the Rockpile Ranch area, located west of Lake Sonoma. The point of beginning is the intersection of Rockpile Road and the Section 15 east boundary line, T 10 N, R 11 W (Warm Springs Dam Quadrangle);

(1) Then proceed straight north to the 800-foot contour line, Section 10, T 10 N, R 11 W (Warm Springs Dam Quadrangle);

(2) Then proceed west along the 800-foot contour line through Sections 10, 9, 4, 5, and 32 to the Section 31 east boundary line, T 11 N, R 11 W (Warm

Springs Dam and Cloverdale Quadrangles);

(3) Then proceed west along the 800-foot contour line in Section 31, following the line as it reverses from the west to the east direction, returning to the east boundary of Section 31, T 11 N, R 11 W (Cloverdale and Big Foot Mountain Quadrangles);

(4) Then proceed along the 800-foot contour line east through Section 32 and northwest through Sections 33, 32, 29, 30, 25, 24, 23, 14, 15, 22, 21, and 20 to the east boundary line of Section 19, T 11 N, R 12 W (Cloverdale and Big Foot Mountain Quadrangles);

(5) Then proceed west, north, south and east along the meandering 800-foot contour line, in a loop, crossing the southwest and northwest headwaters of Galloway Creek, and returning to the east boundary line of Section 19, T 11 N, R 12 W (Big Foot Mountain Quadrangle);

(6) Then proceed straight north to the Mendocino-Sonoma county boundary line, then follow the county line straight west to the R 13 and 12 W line, and continue straight south to the 1,600-foot contour line in the Section 19 southwest corner, T 11 N, R 12 W (Big Foot Mountain Quadrangle);

(7) Then proceed southeast along the meandering 1,600-foot contour line to the Section 29 west boundary line, and continue straight south to the T 11 and 10 N boundary line, R 12 W (Big Foot Mountain Quadrangle);

(8) Then proceed east along the T 11 and 10 N boundary line to the Section 1 west boundary line, R 12 W (Big Foot Mountain Quadrangle);

(9) Then proceed south along the Section 1 west boundary line, turning east at the Section 1 south boundary and continue east to the northwest corner of Section 8, T 10 N, R 11 W (Big Foot Mountain, Tombs Creek and Warm Springs Dam Quadrangles);

(10) Then proceed south along the west boundary of Section 8, turning east at its southwest corner, and continue east to the 876-foot elevation marker, T 10 N, R 11 W (Warm Springs Dam Quadrangle);

(11) Then proceed straight south approximately 2,000 feet to the 800-foot contour line, T 10 N, R 11 W (Warm Springs Dam Quadrangle);

(12) Then follow the 800-foot contour line as it meanders west, southeast, southwest, and east to the Section 14 west boundary, and then straight north, returning to the point of beginning at Rockpile Road, T 10 N, R 11 W (Warm Springs Dam Quadrangle).

[T.D. ATF–473, 67 FR 9193, Feb. 28, 2002]

## § 9.174 Yadkin Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Yadkin Valley''.

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Yadkin Valley viticultural area are two United States Geological Survey (USGS) topographic maps, scale 1:250,000:

(1) Winston-Salem, N.C.; VA; Tenn. (1953, Limited Revision 1962), and,

(2) Charlotte, North Carolina; South Carolina. (1953, Revised 1974).

(c) *Boundaries.* The Yadkin Valley viticultural area is located in the State of North Carolina within Wilkes, Surry, Yadkin and portions of Stokes, Forsyth, Davidson, and Davie Counties. The boundaries are as follows:

(1) On the Winston-Salem, N.C.; VA; Tenn. map, the beginning point is 3.6 miles west of the northeast corner of Surry County on the Surry County and North Carolina/Virginia state line at the crest of Slate Mountain. From the beginning point, proceed southeast in a straight line approximately 6.5 miles to the intersection of the Surry/Stokes County line and State Route 89;

(2) Then bear southeast in a straight line for approximately 9 miles to the line's intersection with State Route 66 in the village of Gap (between Sauratown and Hanging Rock Mountains);

(3) Then bear south, following State Route 66 for approximately 9 miles to intersection of State Route 66 and U.S. Route 52;

(4) Then, for approximately 9.5 miles, follow U.S. Route 52 south through Rural Hall and Stanelyville, to the intersection of the Southern Railway track and U.S. Route 52;

(5) Then bear southerly for approximately 2 miles, following the Southern Railway track to where it intersects with U.S. Route 52 in Winston-Salem;

(6) Then follow U.S. Route 52 south for approximately 19.5 miles, crossing on to the Charlotte, North Carolina; South Carolina map, to its intersection with Interstate 85 at Lexington;

(7) Then, follow Interstate 85 southwest for approximately 11 miles to the Yadkin River and bear northwest approximately 4.5 miles along the Yadkin River to the mouth of the South Yadkin River;

(8) Follow the South Yadkin River upstream in a generally northwest direction approximately 3.5 miles to its intersection with U.S. Route 601;

(9) Then continue in a northerly direction, following U.S. Route 601 through the town of Mocksville, onto the Winston-Salem, N.C.; VA; Tenn. map approximately 20 miles to the Davie/Yadkin County line;

(10) Then, following a series of county lines, continue west along the Yadkin/Davie County line to the Yadkin/Davie/Iredell County line intersection, then follow the Yadkin/Iredell County line to the Yadkin/Iredell/Wilkes County line intersection, then follow the Iredell/Wilkes County line to the Iredell/Wilkes/Alexander County line intersection, then follow the Wilkes/Alexander County line to the Wilkes/Alexander/Caldwell County line intersection;

(11) Then bear northwesterly along the Wilkes/Caldwell County line, to the Wilkes/Caldwell/Watauga County intersection;

(12) Then bear northerly along the Wilkes/Watauga County line to the intersection of the Wilkes/Watauga/Ashe County lines;

(13) Then bear generally northeasterly along the Wilkes/Ashe County line, to the Wilkes/Ashe/Alleghany County line intersection;

(14) Then bear generally easterly along the Wilkes/Alleghany County line to the Wilkes/Alleghany/Surry County line intersection;

(15) Then bear northerly along Alleghany/Surry County line to the intersection of the Alleghany/Surry County line and the North Carolina/Virginia border;

(16) Then bear east along the North Carolina/Virginia State line approximately 22.5 miles, returning to the point of beginning 3.6 miles west of the northeast corner of Surry County.

[T.D. ATF–485, 67 FR 72839, Dec. 9, 2002]

### §9.175 Dos Rios.

(a) *Name.* The name of the viticultural area described in this section is ''Dos Rios''. For purposes of part 4 of this chapter, ''Dos Rios'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Dos Rios viticultural area are four United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Dos Rios, California—Mendocino County, 1967 edition, revised 1994;

(2) Laytonville, California—Mendocino County, 1967 edition, revised 1994;

(3) Iron Peak, California—Mendocino County, 1967 edition, revised 1994; and

(4) Covelo West, California—Mendocino County, 1967 edition, photoinspected 1973.

(c) *Boundary.* The Dos Rios viticultural area is located in northern Mendocino County, California, at the confluence of the Eel River and the Middle Fork of the Eel River. The area's boundaries are defined as follows—

(1) Beginning in the northwestern quarter of the Dos Rios map in section 32, T22N, R13W, at the intersection of the 2,000-foot contour line and Poonkinny Road, proceed southerly and then easterly along the meandering 2,000-foot contour line to its intersection with the eastern boundary of section 2, T21N, R13W, immediately south of State Route 162 (Dos Rios Quadrangle); then

(2) Proceed straight south along the section line, crossing the Middle Fork of the Eel River, to the southeast corner of section 11, T21N, R13W (Dos Rios Quadrangle); then

(3) Proceed 0.9 mile straight west along the southern boundary of section 11 to its intersection with the 2,000-foot elevation line, T21N, R13W (Dos Rios Quadrangle); then

(4) Proceed northerly then westerly along the meandering 2,000-foot contour line, crossing Big Water Canyon, Doghouse Creek, and Eastman Creek, to the contour line's intersection with

the southern boundary of section 17, T21N, R13W (Dos Rios Quadrangle); then

(5) Proceed 2.1 miles straight west along the section line, crossing the Eel River, to the section line's intersection with the 2,000-foot contour line along the southern boundary of section 18, T21N, R13W (Dos Rios Quadrangle); then

(6) Proceed northerly along the meandering 2,000-foot contour line, crossing between the Dos Rios and Laytonville maps (passing around the Sims 2208 benchmark near the southeast corner of section 36, T22N, R14W), and, returning to the Laytonville map, continue westerly to the contour line's intersection with the southwest corner of section 36, T22N, R14W, at Windy Point (Laytonville Quadrangle); then

(7) Proceed 1.2 miles straight north along the section line to its intersection with the 2,000-foot elevation line, section 25, T22N, R14W (Laytonville Quadrangle); then

(8) Proceed northerly along the meandering 2,000-foot elevation, crossing between the Laytonville and Iron Peak maps, and, returning to the Iron Peak map, continue along the contour line to its intersection with the western boundary of section 14 immediately south of an unnamed unimproved road, T22N, R14W (Iron Peak Quadrangle); then

(9) Proceed straight north along the section line to the southeast corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(10) Proceed straight west along the section line to the southwest corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(11) Proceed straight north along the section line to the northwest corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(12) Proceed straight east along the section line, crossing the Eel River, to the northeast corner of section 2, which coincides with the Round Valley Indian Reservation's southern boundary, T22N, R14W (Iron Peak Quadrangle); then

(13) Proceed straight south along the section line to the southeast corner of section 2, T22N, R14W (Iron Peak Quadrangle); then

(14) Proceed 0.3 mile straight east to the section line's intersection with the 2,000-foot elevation line along the northern boundary of section 12, T22N, R14W, west of Eberle Ridge, (Iron Peak Quadrangle); and

(15) Proceed generally southeast along the meandering 2,000-foot elevation, crossing onto the Covelo West map and continuing southerly along the 2,000-foot contour line from Stoner Creek in section 18, T22N, R13W, and, returning to the Dos Rios map, continue southeasterly along the 2,000-foot contour line (crossing Goforth and Poonkinny Creeks), to the beginning point at the contour line's intersection with Poonkinny Road.

[T.D. TTB–34, 70 FR 59995, Oct. 14, 2005]

### § 9.176 Capay Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Capay Valley''.

(b) *Approved maps.* The appropriate map for determining the boundary of the Capay Valley viticultural area is the United States Geological Survey (U.S.G.S.) topographic map titled: 30X60 Minute Quadrangle (Healdsburg, California 1972) (Scale: 1:100,000).

(c) *Boundaries.* The Capay Valley viticultural area is located in Yolo County, California. The beginning point is the junction of the Yolo, Napa, and Lake County lines.

(1) From the beginning point, proceed north then east along the Yolo-Lake County line;

(2) At the junction of the Yolo, Lake, and Colusa County lines, continue east along the Yolo-Colusa County line to its junction with the boundary between ranges R4W and R3W;

(3) Then south along the R4W and R3W boundary to its junction with the 250 meter contour line;

(4) Proceed generally southeast along the meandering 250 meter contour line to its junction with the T10N-T11N section line;

(5) Continue east along the T10N-T11N section line to the unnamed north-south secondary highway known locally as County Road 85;

(6) Then south along County Road 85, crossing Cache Creek, to its intersection with State Highway 16;

(7) Proceed east on Highway 16 to its junction with the unnamed north-south light duty road known locally as County Road 85B;

(8) Then south on County Road 85B to its junction with the unnamed east-west light duty road known locally as County Road 23;

(9) Proceed west on County Road 23 for approximately 500 feet to an unnamed light duty road known locally as County Road 85;

(10) Proceed south on County Road 85 until the road ends and continue south in a straight line to the T9N-T10N section line;

(11) Then west on the T9N-T10N section line to the Napa-Yolo County line;

(12) Continue northwest following the Napa-Yolo county line and return to the starting point.

[T.D. ATF–486, 67 FR 77924, Dec. 20, 2002]

### §9.177 Alexandria Lakes.

(a) *Name.* The name of the viticultural area described in this section is ''Alexandria Lakes''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Alexandria Lakes viticultural area are four United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Alexandria West, Minn., 1966, revised 1994.

(2) Alexandria East, Minn., 1966, revised 1994.

(3) Lake Miltona East, Minn., 1969.

(4) Lake Miltona West, Minn., 1969.

(c) *Boundary.* The Alexandria Lakes viticultural area is located in Douglas County, Minnesota. The boundary of the Alexandria Lakes viticultural area is as described below:

(1) The beginning point is on the Alexandria West, Minn. map between Lake Carlos and Lake Darling at benchmark (BM) 1366, which is an unmarked bridge on County Road 11, known as the Carlos-Darling Bridge. From this point the boundary line continues—

(2) Along the Carlos-Darling bridge and then northeasterly along the western shore of Lake Carlos on to the Alexandria East, Minn. map; then

(3) Along the shoreline until the point where the Lake Carlos shoreline parallels an unlabeled road known as County Road 38; then

(4) North along County Road 38 until it intersects with an unlabeled road known as County Road 62; then

(5) North along County Road 62 on to the Lake Miltona, East, Minn. map and then on to an unlabeled road known as Buckskin Road; then

(6) North on Buckskin Road to the point at BM 1411; then

(7) North from BM 1411 in a straight line to the south shoreline of Lake Miltona; then

(8) Generally west along the south shoreline of Lake Miltona onto the Lake Miltona West, Minn. map until the southern shoreline parallels an unlabeled road known as Krohnfeldt Drive; then

(9) South and then west along Krohnfeldt Drive until it intersects with an unlabeled road known as County Road 34; then

(10) South along County Road 34 until the point where County Road 34 runs parallel to Lake Ida's eastern shoreline; then

(11) South along Lake Ida's eastern shoreline, then onto the Alexandria West, Minn. map to the point where two unlabeled roads known as Burkey's Lane and Sunset Strip Road intersect; then

(12) South along Sunset Strip Road to the point where it intersects with an unlabeled road known as County Road 104; then

(13) Generally east along County Road 104 until it intersects with an unlabeled road known as County Road 34; then

(14) East along County Road 34 until it intersects with an unlabeled road known as County Road 11; then

(15) East along County Road 11 to the beginning point for the area at BM 1366, at the Carlos-Darling Bridge.

[T.D. TTB–29, 70 FR 38003, July 1, 2005]

### §9.178 Columbia Gorge.

(a) *Name.* The name of the viticultural area described in this section is ''Columbia Gorge''.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Columbia Gorge viticultural area are 10 United States Geological Survey,

1:24,000 scale, topographic maps. They are—

(1) Hood River Quadrangle, Oregon—Washington, 1994;

(2) Northwestern Lake Quadrangle, Washington, 1983;

(3) Husum Quadrangle, Washington—Klickitat Co., 1994;

(4) Appleton Quadrangle, Washington—Klickitat Co., 1994;

(5) Lyle Quadrangle, Washington—Oregon, 1994;

(6) Brown Creek Quadrangle, Oregon, 1994;

(7) Ketchum Reservoir Quadrangle, Oregon, 1994;

(8) Parkdale Quadrangle, Oregon—Hood River Co., 1994;

(9) Dee Quadrangle, Oregon—Hood River Co., 1994; and

(10) Mt. Defiance Quadrangle, Oregon—Washington, 1994.

(c) *Boundary*. The Columbia Gorge viticultural area is located in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington. The area's point of beginning is on the Hood River map, at the intersection of Washington State Highway 14 and the R9E-R10E line, close to Tunnel 4, on the north bank of the Columbia River. From this point, the boundary line—

(1) Goes 1.5 miles straight north along the R9E-R10E line to the northwest corner of section 19, T3N, R10E (Hood River Quadrangle);

(2) Continues 2 miles straight east along the section line to the northeast corner of section 20, T3N, R10E (Hood River Quadrangle);

(3) Goes 4.1 miles straight north along the section line, crossing onto the Northwestern Lake map, to the northwest corner of section 33, T4N, R10E (Northwestern Lake Quadrangle);

(4) Continues 1 mile straight east on the section line to the northeast corner of section 33, T4N, R10E (Northwestern Lake Quadrangle);

(5) Goes 1 mile straight north on the section line to the northwest corner of section 27, T4N, R10E (Northwestern Lake Quadrangle);

(6) Continues 1 mile straight east on the section line to the northeast corner of section 27, T4N, R10E (Northwestern Lake Quadrangle);

(7) Goes 3.8 miles north on the section line to its intersection with the T4N-T5N line, R10E (Northwestern Lake Quadrangle);

(8) Continues 4 miles straight east on the T4N-T5N line, crossing onto the Husum map, to the northeast corner of section 5, R11E (Husum Quadrangle);

(9) Goes 2 miles straight south on the section line to the southwest corner of section 9, T4N, R11E (Husum Quadrangle);

(10) Continues 2 miles straight east on the section line to the northeast corner of section 15, T4N, R11E (Husum Quadrangle);

(11) Goes 3 miles straight south on the section line to the southwest corner of section 26, T4N, R11E (Husum Quadrangle);

(12) Continues 2 miles straight east on the section line, crossing onto the Appleton map, to the R11E-R12E line (Appleton Quadrangle);

(13) Goes 1.25 miles straight south on the R11E-R12E line to its intersection with the 2,000-foot contour line near the northeast corner of section 1, T3N (Appleton Quadrangle);

(14) Continues 11 miles south along the meandering 2,000-foot contour line through sections 1 and 12; then generally east through sections 7, 18, 8, and 9 to section 10; then generally north, weaving back and forth between sections 3, 4, 33, and 34; then south to section 3, until the 2,000-foot contour line first intersects the section line between sections 2 and 3, near a creek and an unnamed light duty road, T3N, R12E (Appleton Quadrangle);

(15) Goes 5.1 miles straight south on the section line, crossing onto the Lyle map, and continuing south until it intersects with the Klickitat River along the section 34 east boundary line, T3N, R12E (Lyle Quadrangle);

(16) Continues 0.9 mile generally southwest along the Klickitat River until it joins the Columbia River, and then continues 0.4 mile southwest in a straight line to the Washington-Oregon State line in the center of the Columbia River, section 3, T2N, R12E (Lyle Quadrangle);

(17) Follows the Oregon-Washington state line 2.4 miles generally southeast

until it intersects with a northward extension of the R12E-R13E line, T2N (Lyle Quadrangle);

(18) Goes 11 miles straight south on the R12E-R13E line, crossing onto the Brown Creek map, to its intersection with the T1N-T1S Base Line at the southeast corner of section 36 (Brown Creek Quadrangle);

(19) Continues 6.1 miles straight west along the T1N-T1S Base Line, crossing onto the Ketchum Reservoir map, to its intersection with the R11E-R12E line at the southeast corner of section 36 (Ketchum Reservoir Quadrangle);

(20) Goes 6 miles straight north on the R11E-R12E line to its intersection with the T1N-T2N line at the northeast corner of section 1 (Ketchum Reservoir Quadrangle);

(21) Continues 6.2 miles straight west on the T1N-T2N line, crossing onto the Parkdale map, to its intersection with the R10E-R11E line at the southeast corner of section 36 (Parkdale Quadrangle);

(22) Goes 1.85 miles south on the R10E-R11E line to its intersection with the 2,000-foot contour line near the southeast corner of section 12, T1N, R10E (Parkdale Quadrangle);

(23) Continues 10.1 miles along the meandering 2,000-foot contour line generally southwest through sections 12, 13, 14, 23, 22, 26, 27, and 34 in T1N, and section 4 in T1S, to its intersection with the section 4 south boundary line, T1S, R10E (Parkdale Quadrangle);

(24) Goes 2.4 miles straight west along the section line to its intersection with the R9E-R10E line, just west of Trout Creek, at the southwest corner of section 6, T1S (Parkdale Quadrangle);

(25) Continues 1 mile straight north along the R9E-R10E line to its intersection with the T1S-T1N Base Line at the northwest corner of section 6 (Parkdale Quadrangle);

(26) Goes 1.3 miles straight west along the T1S-T1N Base Line, crossing onto the Dee map, to its intersection with the R9E-R10E line at the southwest corner of section 21 (Dee Quadrangle);

(27) Continues 3.1 miles north along the R9E-R10E line to the southeast corner of section 13, T1N (Dee Quadrangle);

(28) Goes 2 miles west along the section line to the southwest corner of section 14, T1N, R9E (Dee Quadrangle);

(29) Continues 1 mile straight north along the section line to the northwest corner of section 14, T1N, R9E (Dee Quadrangle);

(30) Goes 1 mile east along the section line to the northeast corner of section 14, T1N, R9E (Dee Quadrangle);

(31) Continues 2 miles straight north along the section line until its intersection with the T1N-T2N line, R9E (Dee Quadrangle);

(32) Goes 1 mile straight east along the T1N-T2N line to the southeast corner of section 36, R9E (Dee Quadrangle);

(33) Continues 6.75 miles straight north along the R9E-R10E line, crossing onto the Mt. Defiance map, to the Washington-Oregon State line in the Columbia River, T3N (Mt. Defiance Quadrangle);

(34) Goes 1 mile straight east-northeast along the State line, crossing onto the Hood River map, to its intersection with a southward extension of the R9E-R10E line, T3N (Hood River Quadrangle); and

(35) Continues 0.6 mile north along the R9E-R10E extension, returning to the point of beginning at its intersection with the Washington State Highway 14, close to Tunnel 4, on the north bank of the Columbia River (Hood River Quadrangle).

[T.D. TTB–11, 69 FR 25833, May 10, 2004]

### §9.179 Southern Oregon.

(a) *Name.* The name of the viticultural area described in this section is ''Southern Oregon''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Southern Oregon viticultural area are two 1:250,000 scale, USGS topography maps. They are titled:

(1) Roseburg, Oregon—1958, revised 1970; and

(2) Medford, Oregon; California—1955, revised 1976.

(c) *Boundary.* The Southern Oregon viticultural area is located entirely within Douglas, Jackson, and Josephine Counties, Oregon. The beginning point is on the Roseburg map at the intersection of Interstate Highway 5

and the Douglas-Lane County line, T21S, R4W.

(1) From the beginning point, proceed north along the Douglas-Lane County line approximately 0.5 miles to the 1,000-foot contour line; then

(2) Proceed northwest along the 1,000-foot contour line to the Douglas-Lane County line; then west along the County line approximately 2.5 miles, returning to the 1,000-foot contour line; then in a generally westerly direction along the 1,000-foot contour line to its first intersection with the R9W–R10W range line; then

(3) Proceed along the 1,000-foot contour line, crossing the R9W–R10W range line four more times; then proceed south along the R9W–R10W range line approximately 2.75 miles to the center of the Umpqua River; then along a straight line in an easterly direction approximately 6.25 miles to the intersection of range line R8W–R9W with the center of the Umpqua River; then south along range line R8W–R9W approximately 3.5 miles to its intersection with township line T22S–T23S; then

(4) Proceed southeast approximately 8.5 miles along a straight line to the intersection of township line T23S–T24S with range line R7W–R8W; then south along the R7W–R8W range line approximately 8 miles to its intersection with the 1,000-foot contour line; then in a southeasterly direction in a straight line approximately 3.5 miles toward the intersection of township line T25S–T26S with range line R6W–R7W, but stopping short at the 1,000-foot contour line; then

(5) Proceed in a southerly direction along the 1,000-foot contour line to the intersection of township line T27S–T28S with range line R7W–R8W; then in a southwesterly direction in a straight line approximately 3.5 miles toward the intersection of township line T28S–T29S with range line R8W–R9W, but stopping short and returning to the 1,000-foot contour line near the center of T28S, R8W; then generally south along the 1,000-foot contour line to its intersection with township line T29S–T30S; then

(6) Proceed east along township line T29S–T30S approximately 0.33 mile, rejoining the 1,000-foot contour line; then in a northerly and eventually a southerly direction along the 1,000-foot contour line, passing onto the Medford map, and past the town of Riddle to range line R6W–R7W; then south along the R6W–R7W range line approximately 15 miles to the Josephine-Douglas County line; then in a general northeasterly direction along the County line to its intersection with Interstate 5 approximately 1.3 miles south of Cow Creek ; then

(7) Proceed southerly and southwesterly along southbound Interstate 5 to its junction with Wolf Creek and then north about 500 feet to the Southern Pacific Railway line; then westerly and southerly out of the town of Wolf Creek along the Southern Pacific Railway line to the rail line's intersection with Hugo Road at the town of Hugo; then southwesterly along Hugo Road to the point where Hugo Road crosses Jumpoff Joe Creek; then westerly and downstream along that creek to the intersection of Jumpoff Joe Creek and the Rogue River; then

(8) Proceed northwesterly and downstream along the Rogue River to the first point where the Wild and Scenic Rogue River designated area touches the easterly boundary of the Siskiyou National Forest, just south of Galice; then

(9) Proceed in a generally southwesterly direction (with many diversions) along the easterly border of the Siskiyou National Forest to the 42 degree 0 minute north latitude line; then easterly along the latitude line to the point where the Siskiyou National Forest boundary again crosses into Oregon, approximately 1 mile east of U.S. Highway 199; then

(10) Proceed in a generally northeasterly direction and then in a southeasterly direction (with many diversions) along the northern boundary of the Siskiyou National Forest to the point where the Siskiyou National Forest touches the Rogue River National Forest at Big Sugarloaf Peak; then

(11) Proceed in a generally easterly direction (with many diversions) along the northern border of the Rogue River National Forest to the point where the Rogue River National Forest intersects with Slide Creek approximately 6 miles southeast of Ashland; then

(12) Proceed southeasterly and northeasterly along Slide Creek to the point where the creek intersects State Route 273; then northwesterly along State Route 273 to the point where it intersects State Highway 66; then proceed in an easterly direction approximately 5 miles along State Route 66 to the east line of T39S, R2E; then

(13) Proceed north along the east line of T39S, R2E to the northeast corner of T39S, R2E; then westerly approximately 5 miles along the north line of T39S, R2E, to the 2,600 foot contour line; then in a northerly direction following the 2,600 foot counter line across Walker Creek and then in a southwesterly direction to the point where the 2,600 foot contour line touches the east line of T38S, R1E; then

(14) Proceed northerly along the east line of T38S, R1E, to the northeast corner of T38S, R1E; then

(15) Proceed westerly along the north line of T38S, R1E, to the northwest corner of T38S, R1E; then

(16) Proceed northerly along the west line of T37S, R1E, to the northwest corner of T37S, R1E; then

(17) Proceed easterly along the north lines of T37S, R1E, and T37S, R2E, to the southeast corner of T36S, R2E; then

(18) Proceed northerly along the east line of T36S, R2E, to the northeast corner of T36S, R2E; then

(19) Proceed westerly along the north line of T36S, R2E, to the northwest comer of T36S, R2E; then

(20) Proceed northerly along the east line of T35S, R1E, to the northeast comer of T35S, R1E; then

(21) Proceed westerly along the north line of T35S, R1E, to the northwest corner of T35S, R1E; then

(22) Proceed northerly along the east line of T34S, R1W, to the northeast corner of T34S, R1W; then

(23) Proceed westerly along the common boundary line of T34S–T33S to the northwest corner of T34S, R5W; then

(24) Proceed northerly along the west line of T33S, R5W, to the Josephine-Douglas County line; thence in a generally east, northeasterly direction along the county line to the intersection of R3W–R4W range line; thence north along the R3W–R4W range line approximately 11.8 miles to the 1,000-foot contour line just south of State Route 227 southeast of the town of Days Creek; then

(25) Proceed in an easterly, westerly, and eventually northerly along the 1,000-foot contour line, crossing to the Roseburg map from the Medford map, to a point approximately 3.5 miles east of Dillard, where the contour line crosses Interstate 5 on the Roseburg map; thence northeast along Interstate 5 approximately 0.25 mile, returning to the 1,000-foot contour line; thence in a generally northeasterly, southeasterly, northwesterly, and eventually northeasterly along the 1,000-foot contour line past the town of Idleyld Park to the R2W–R3W range line; then

(26) Proceed north along range line R2W–R3W approximately 1.75 miles to the T25S–T26S township line; thence west along township line T25S–T26S approximately .25 mile, returning to the 1,000-foot contour line; thence in a generally westerly and then a northerly direction along the 1,000-foot contour line toward the valley of Calapooya Creek to the R3W–R4W range line; thence north along range line R3W–R4W approximately 2.25 miles, back to the 1,000-foot contour line; then

(27) Proceed in a westerly and then a northerly direction along the 1,000-foot contour line to the T23S–T24S township line, then east along the T23S–T24S township line approximately 2.75 miles to the 1,000-foot contour line; then in a northerly direction along the 1,000-foot contour line to its intersection with the Douglas-Lane County line; thence north along the county line approximately 0.75 mile to the beginning point.

[T.D. TTB–19, 69 FR 70892, Dec. 8, 2004]

### §9.180 Dundee Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Dundee Hills''.

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Dundee Hills viticultural area are three United States Geological Survey (USGS) 1:24,000 scale maps. They are titled:

(1) Dundee Quadrangle, Oregon, 1956, revised 1993;

(2) Newberg Quadrangle, Oregon, 1961, photorevised 1985; and

(3) Dayton Quadrangle, Oregon, 1957, revised 1992.

(c) *Boundary.* The Dundee Hills viticultural area is located in Yamhill County, Oregon, near the town of Newberg, and is entirely within the Willamette Valley viticultural area. The boundary of the Dundee Hills viticultural area is as described below:

(1) The beginning point is on the Dundee map at the intersection of the 200-foot contour line with Kuehne Road at the common boundary line of sections 47 and 48, T3S, R3W;

(2) From the beginning point, proceed east then south along the meandering 200-foot contour line, crossing over to and back off the Newberg map, and then cutting diagonally southwest through the town of Dundee to the 200-foot contour line's intersection with Hess Creek, section 34, T3S, R3W (Dundee Quadrangle); then

(3) Proceed south, then west, and then northeast, along the meandering 200-foot contour line, twice crossing over to and back off the Dayton map, to the contour line's intersection with Abbey Road after the line passes a quarry and crosses the two forks of Millican Creek in section 52, T3S, R3W (Dundee Quadrangle); then

(4) Proceed generally north on Abbey Road to Kuehne Road and then follow Kuehne Road northeasterly to the beginning point.

[T.D. TTB–18, 69 FR 69527, Nov. 30, 2004]

### § 9.181 McMinnville.

(a) *Name.* The name of the viticultural area described in this section is ''McMinnville.''

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the McMinnville viticultural area are five United States Geological Survey (USGS) 1:24,000 scale topographic maps titled:

(1) McMinnville, Oregon, 1957, revised 1992;

(2) Muddy Valley, Oregon, 1979, revised 1992;

(3) Stony Mountain, Oregon, 1979, revised 1992;

(4) Sheridan, Oregon, 1956, revised 1992; and

(5) Ballston, Oregon, 1956, revised 1992.

(c) *Boundary.* The McMinnville viticultural area is located in Yamhill County, Oregon, and is entirely within the Willamette Valley viticultural area. The boundary of the McMinnville viticultural area is as described below—

(1) The beginning point is on the McMinnville, Oregon, map where the 200-foot contour line intersects the common boundary between section 13, T4S, R5W, and section 18, T4S, R4W. From this point follow the meandering 200-foot contour line westerly for about 2 miles to its intersection with Baker Creek Road in section 54, T4W, R5W, on the Muddy Valley map;

(2) Then follow Baker Creek Road west about 2 miles through Happy Valley to the road's intersection with Power House Hill Road in section 50, T4S, R5W (Muddy Valley map);

(3) Proceed southwest on Power House Hill Road for about 1.4 miles to its intersection with Peavine Road in section 17, T4S, R5W (Muddy Valley map);

(4) Follow Peavine Road west and then northwest about 1.5 miles to its intersection with Gill Creek in section 18, T4S, R5W (Muddy Valley map);

(5) Follow Gill Creek southerly (downstream) for about 0.6 miles to its intersection with the 800-foot contour line in section 18, T4S, R5W, on the Muddy Valley map;

(6) From Gill Creek, follow the meandering 800-foot contour line westerly, crossing Deer Creek in section 14, T4S, R6W, on the Stony Mountain map, and, crossing back and forth four times between the Stony Mountain and Muddy Valley maps in section 24, T4S, R6W, continue southwesterly to the contour line's intersection with Thomson Mill Road in section 27, T4S, R6W, on the Stony Mountain map;

(7) Continue to follow the meandering 800-foot contour line southwesterly, crossing Cronin and Beaver Creeks, to the 800-foot contour line's intersection with Rock Creek Road in section 46, T5S, R6W, on the Stony Mountain map;

(8) Then follow Rock Creek Road south for about 5 miles to its intersection with the West Valley Highway in section 44, T5S, R6W, on the Sheridan map, and continue about 200 feet due

south in a straight line to from that intersection to the 200-foot contour line, just north of the Yamhill River (Sheridan map);

(9) Then follow the meandering 200-foot contour line easterly, passing north of most of the village of Sheridan, crossing onto the Ballston map, and continue easterly and then northerly along the 200-foot contour line to its first intersection with Christensen Road at the common boundary between sections 27 and 34, T5S, R5W (Ballston map);

(10) Continue to follow the 200-foot contour line westerly and then northerly, passing onto the Muddy Valley map and then the Stony Mountain map, to the contour line's intersection with Deer Creek in section 64, T5S, R6W (Stony Mountain map);

(11) Cross Deer Creek and follow the 200-foot contour line southeasterly, crossing Dupree Creek in section 64, T5S, R6W, on the Muddy Valley map, and, crossing onto the Ballston map, continue southerly and then easterly along the 200-foot contour line to its intersection with State Route 18 at the hamlet of Bellevue, section 28, T5S, R5W (Ballston map);

(12) Continue westerly then northerly along the meandering 200-foot contour line, crossing Latham Road at the northern boundary of section 53, T5S, R5W, and, crossing onto the Muddy Valley map, continue northerly along the 200-foot contour line to its intersection with Muddy Creek in section 40, T5S, R5W (Muddy Valley map);

(13) Crossing Muddy Creek, follow the 200-foot contour line southerly, then easterly, and then northerly to its intersection with Peavine Road in the western extension of section 47, T4S, R5W (Muddy Valley map);

(14) From Peavine Road, continue northeasterly along the meandering 200-foot contour line, crossing Cozine Creek in section 46, T4S, R5W, and, crossing onto the McMinnville map, follow the 200-foot contour line across Redmond Hill Road in section 44, T4S, R5W, and return to the point of beginning (McMinnville map)

[T.D. TTB–22, 70 FR 2804, Jan. 18, 2005]

## §9.182 Ribbon Ridge.

(a) *Name.* The name of the viticultural area described in this section is ''Ribbon Ridge.''

(b) *Approved Maps.* The appropriate maps used to determine the boundaries of the Ribbon Ridge viticultural area are the following two United States Geological Survey (USGS), 1:24,000 scale, topographical maps (7.5 minute series).

(1) Laurelwood Quadrangle, Oregon, 1956, photorevised 1978; and

(2) Dundee Quadrangle, Oregon, 1956, revised 1993.

(c) *Boundary.* The Ribbon Ridge viticultural area is located in northern Yamhill County, Oregon, northwest of the town of Dundee.

(1) The beginning point is on the Laurelwood Quadrangle map at the intersection of a light-duty road known locally as Albertson Road and Dopp Road (named on the Dundee map), just east of the Lake View School, section 58, T2S, R3W. From the beginning point, the boundary line—

(2) Continues south on Dopp Road for about 4.9 miles, crossing onto the Dundee map, to the road's intersection with North Valley Road, near the Erwin Young School, section 39, T3S, R3W (Dundee Quadrangle); then

(3) Continues west then north on North Valley Road for about 5 miles, crossing over to the Laurelwood map, to the road's intersection with Laughlin and Albertson Roads, just west of the Lake View School, section 58, T2S, R3W (Laurelwood Quadrangle); then

(4) Continues east on Albertson Road for about 0.2 miles and returns to the beginning point.

[T.D. TTB–27, 70 FR 31344, June 1, 2005]

## §9.183 Yamhill-Carlton District.

(a) *Name.* The name of the viticultural area described in this section is ''Yamhill-Carlton District''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yamhill-Carlton District viticultural area are eight 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) Gaston Quadrangle, Oregon, 1956, revised 1992;

(2) Laurelwood Quadrangle, Oregon, 1956, revised 1992;

(3) Dundee Quadrangle, Oregon, 1956, revised 1993;

(4) Carlton Quadrangle, Oregon—Yamhill Co., 1957, revised 1992;

(5) Fairdale Quadrangle, Oregon-Yamhill Co., 1979;

(6) McMinnville Quadrangle, Oregon—Yamhill Co., 1957, revised 1992;

(7) Muddy Valley Quadrangle, Oregon—Yamhill Co., 1979, revised 1992; and

(8) Turner Creek Quadrangle, Oregon, 1979.

(c) *Boundary*. The Yamhill-Carlton District viticultural area is located in Yamhill and Washington Counties, Oregon, and is entirely within the Willamette Valley viticultural area. The Yamhill-Carlton District viticultural area is limited to lands at or above 200 feet in elevation and at or below 1,000 feet in elevation within its boundary, which is described as follows—

(1) The point of beginning is on the Gaston map in the village of Gaston at the intersection of Gaston Road East (E. Main Street within Gaston) and the 200-foot elevation line, approximately 225 feet west of State Route 47, section 49, T1S, R4W. From this beginning point, proceed southerly and then southeasterly about 8.15 miles along the meandering 200-foot elevation line (crossing to and from the Laurelwood map in sections 12 and 13, T2S, R4W, and then returning to the Laurelwood map) to the 200-foot elevation line's intersection with Spring Hill Road, section 58, T2S, R3W (Laurelwood Quadrangle); then

(2) Proceed south 1.1 miles on Spring Hill Road, which becomes North Valley Road at Laughlin Road, crossing onto the Dundee map, to the road's intersection with the 200-foot elevation line, section 30, T2S, R3W (Dundee Quadrangle); then

(3) Proceed northerly then southerly for approximately 5 miles along the 200-foot elevation line, crossing over to and back from the Laurelwood map, to the 200-foot elevation line's intersection with State Route 240, section 47, T3S, R3W (Dundee Quadrangle); then

(4) Proceed straight west for 0.2 mile on State Route 240 to its intersection with Kuehne Road at the 207-foot benchmark, section 47, T3S, R3W (Dundee Quadrangle); then

(5) Proceed southerly for about 1.9 miles on Kuehne Road to its intersection with Abbey Road, section 50, T3S, R3W (Dundee Quadrangle); then

(6) Proceed southerly 1.4 miles on Abbey Road to its intersection with the 200-foot elevation line, north of the 174-foot elevation point, section 52, T3S, R3W (Dundee Quadrangle); then

(7) Proceed southwesterly for about 2.1 miles along the meandering 200-foot elevation line to Lafayette Cemetery on the Carlton map in section 1, T4S, R4W, and turning northerly along the 200-foot elevation line, continue along the elevation line for about 6 miles, crossing to and from the Dundee map, to the 200-foot elevation line's intersection with Stag Hollow Road, north of Hendricks Road and 190-foot elevation point, section 24, T3S, R4W (Carlton Quadrangle); then

(8) Continue westerly along the meandering 200-foot elevation line, turning northeasterly as the elevation line passes through the Carlton Lakes State Wildlife Refuge, then westerly as the elevation line crosses Stag Hollow Creek in section 47, T3S, R4W, then southerly as the elevation line crosses the North Yamhill River on the Fairdale map in section 43, T2S, R5W, then, returning to the Carlton map, continue southerly on the 200-foot elevation line to its intersection with Meadow Lake Road near the southwest corner of section 55, T3S, R4W (Carlton Quadrangle);

(9) Continue westerly along the meandering 200-foot elevation line, crossing onto the Fairdale map, to the elevation line's intersection with the 123°17′30″ longitude line (north of Panther Creek) in the western extension of section 22, T3S, R5W (Fairdale Quadrangle); then

(10) Proceed 0.2 mile straight south along the 123°17′30″ longitude line, crossing Panther Creek, to the line's intersection with the 200-foot elevation line south of the creek in the western extension of section 22, T3S, R5W (Fairdale Quadrangle); then

(11) Proceed easterly and then southeasterly along the meandering 200-foot elevation line, crossing onto the Carlton map, then the McMinnville

map, to the elevation line's third intersection with an unnamed light-duty road, southwest of the Henderson Benchmark in section 87, T4S, R4W (McMinnville Quadrangle);

(12) Continue southerly and then westerly along the meandering 200-foot elevation line, crossing onto the Muddy Valley map, to the elevation line's intersection with Baker Creek Road (very near Baker Creek Road's intersection with High Heaven Road) in section 54, T4S, R5W (Muddy Valley Quadrangle); then

(13) Proceed west-southwest for 0.8 mile on Baker Creek Road to its intersection with the 123°17′30″ longitude line in Happy Valley, section 54, T4S, R5W (Muddy Valley Quadrangle); then

(14) Proceed straight north 13.4 miles on the 123°17′30″ longitude line, passing through the Fairdale map and crossing onto the Turner Creek map, to the longitude line's intersection with the 1,000-foot elevation line in the northwestern quadrant of section 10, T2S, R5W, approximately one mile diagonally northwest of the footbridge in Menefee Park (Turner Creek Quadrangle); then

(15) Proceed easterly and then northerly for 4.1 miles along the meandering 1,000-foot elevation line to its intersection with the Washington-Yamhill County line at northern boundary of section 3, T2S, R5W (also the common T1S/T2S boundary line) (Turner Creek Quadrangle); then

(16) Proceed straight east 3.9 miles along the Washington-Yamhill County line, crossing onto the Gaston map, to the county line's intersection with South Road, just east of Mt. Richmond Road, section 60, T2S, R4W (Gaston Quadrangle); then

(17) Proceed east-northeast for 1.8 miles on South Road to its intersection with the 200-foot elevation line, 0.3 mile west of the Gaging Station, section 34, T1S, R4W (Gaston Quadrangle); then

(18) Proceed easterly 1.9 miles along the 200-foot elevation line and return to the beginning point within the village of Gaston.

[TTB T.D.–20, 69 FR 71374, Dec. 9, 2004]

## §9.184 Trinity Lakes.

(a) *Name.* The name of the viticultural area described in this section is ''Trinity Lakes''.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Trinity Lakes viticultural area are 11 1:24,000 scale USGS topographic maps. They are titled:

(1) Carrville, Calif. Provisional Edition 1986;

(2) Whisky Bill Peak, Calif. Provisional Edition 1986;

(3) Damnation Peak, Calif. Provisional Edition 1982;

(4) Trinity Center, Calif. Provisional Edition 1982;

(5) Papoose Creek, Calif. Provisional Edition 1982;

(6) Trinity Dam, Calif. Provisional Edition 1982;

(7) Lewiston, Calif. Provisional Edition 1982;

(8) Weaverville, Calif. Provisional Edition 1982;

(9) Rush Creek Lakes, Calif. Provisional Edition 1982;

(10) Siligo Peak, Calif. Provisional Edition 1982; and

(11) Covington Mill, Calif. Provisional Edition 1982.

(c) *Boundary.* The Trinity Lakes viticultural area is located in Trinity County in northern California. The boundary encompasses Trinity Lake and Lewiston Lake, both within the Trinity Lake unit of the Whiskeytown-Shasta-Trinity National Recreation Area, and a portion of the Trinity River basin below Lewiston Dam.

(1) The beginning point is on the Carrville, California, quadrangle map on township line T38N/T37N at the northwest corner of section 5, T37N/R7W, near the Trinity River at Derrick Flat;

(2) From the beginning point, follow township line T38N/T37N due east to the northeast corner of section 5, T37N/R7W;

(3) Proceed due south on the eastern boundary of sections 5, 8, 17, and 20 to the northwest corner of section 28, T37N/R7W, near Snow Gulch;

(4) Follow the northern boundary of section 28, T37N/R7W, due east to the section's northeast corner;

(5) Continue due south on the eastern boundary of sections 28 and 33, T37N/

R7W, to township line T37N/T36N at the northeast corner of section 4, T36N/R7W;

(6) Proceed due east on township line T37N/T36N onto the Whisky Bill Peak, California quadrangle map to the R7W/R6W range line at the southwest corner of section 31, T37N/R6W, near the East Fork of the Trinity River;

(7) Follow the R7W/R6W range line due north to the northwest corner of section 30, T37N/R6W;

(8) Continue due east along the northern boundary of section 30, T37N/R6W, to the section's northeast corner;

(9) Proceed due south on the eastern boundary of sections 30 and 31, T37N/R6W, and sections 6 and 7, T36N/R6W, and continue onto the Damnation Peak, California, quadrangle map to the southeast corner of section 7;

(10) Follow the southern boundary of section 7, T36N/R6W, and section 12, T36N/R7W, due west onto the Trinity Center, California, quadrangle map to the northeast corner of section 14, T36N/R7W;

(11) Continue due south along the eastern boundary of sections 14, 23, 26, and 35, T36N/R7W, to the boundary's intersection with township line T36N/T35N at the southeast corner of section 35;

(12) Proceed due west along township line T36N/T35N approximately 0.5 mile to the township line's intersection with the 900-meter contour line;

(13) Follow the meandering 900-meter contour line generally west through sections 35 and 34, T36N/R7W; cross the T36N/T35N township line and continue generally southwest on the contour line around Linton Ridge, through Bridge Gulch, Bragdon Gulch, and around Feeny Ridge; cross onto the Papoose Creek, California, quadrangle map and continue southwesterly to the contour line's first intersection with a line marked ''NAT RECREATION BDY INDEFINITE,'' approximately 2,000 feet north of Feeny Gulch;

(14) Continue easterly on the 900-meter contour line over Feeny Gulch; then proceed southwesterly on the meandering contour line across Van Ness Creek, both Bear Gulches, Langdon Gulch, Digger Gulch, around Fairview Ridge, along the northern side of Papoose Arm, and over the North, East, and South Forks of Papoose Creek; continue westerly on the contour line along the southern side of Papoose Arm to the contour line's intersection with Little Papoose Creek in section 24, T34N/R8W;

(15) Continue generally west along the meandering 900-meter contour line through sections 24, 23, 14, and 15, T34N/R8W; cross onto the Trinity Dam, California, quadrangle map and continue on the contour line through sections 15 and 22; pass back onto the Papoose Creek map and follow the contour line through sections 22, 23, and 22 again; then cross back onto the Trinity Dam map and follow the contour line to its intersection with the southern boundary of section 22, T34N/R8W;

(16) Proceed due west along the southern boundary of section 22 to the northeast corner of section 28, T34N/R8W;

(17) Follow the eastern boundary of sections 28 and 33, T34W/R8W, and section 4, T33N/R8W, due south onto the Lewiston, California, quadrangle map, and continue due south on the eastern boundary of sections 4, 9, 16, and 21 to the southeast corner of section 21, T33N/R8W;

(18) Then proceed due west along the southern boundary of sections 21 and 20 to the northeast corner of section 30, T33N/R8W;

(19) Follow the eastern boundary of section 30, T33N/R8W, due south to the section's southeast corner;

(20) Continue due west along the southern boundary of section 30, T33N/R8W, and sections 25 and 26, T33N/R9W, to the northeast corner of section 34, T33N/R9W;

(21) Proceed due south on the eastern boundary of section 34, T33N/R9W, and section 3, T32N/R9W, to the southeast corner of section 3 near Tom Lang Gulch;

(22) Follow the southern boundary of section 3, T32N/R9W, due west onto the Weaverville, California, quadrangle map, and continue west along the southern boundary of sections 3, 4, and 5, T32N/R9W, to the southwest corner of section 5;

(23) Then proceed due north along the western boundary of section 5, T32N/R9W, for approximately 0.8 mile to its

intersection with the 700-meter contour line;

(24) Follow the 700-meter contour line generally northwest through section 5, T32N/R9W, and then through sections 32, 31, 32 again, 29, and 28, T33N/R9W, to the contour line's intersection with the northern boundary of section 28;

(25) Proceed due east along the northern boundary of section 28 across Limekiln Gulch and China Gulch to the southwest corner of section 22, T33N/R9W;

(26) Follow the western boundary of section 22, T33N/R9W, due north to the section's northwest corner;

(27) Then continue due east along the northern boundary of section 22, T33N/R9W, onto the Lewiston map to the section's northeast corner;

(28) Proceed due north on the western boundary of section 14, T33N/R9W, to the section's northwest corner;

(29) Follow the northern boundary of sections 14 and 13, T33N/R9W, due east to the R9W/R8W range line at the northeast corner of section 13;

(30) Then proceed due north along the R9W/R8W range line onto the Trinity Dam map, and continue along the range line to the southeast corner of section 1, R9W/T34N, near Smith Gulch;

(31) Continue due west along the southern boundary of section 1, T34N/R9W, for approximately 0.3 mile to its intersection with the 900-meter contour line;

(32) Follow the meandering 900-meter contour line generally west over Tannery Gulch and around Tannery Ridge, cross onto the Rush Creek Lakes, California, quadrangle map, and continue along the 900-meter contour line to its intersection with Slate Creek in section 4, T34N/R9W;

(33) Using the Rush Creek Lakes and Trinity Dam maps, follow the contour line generally northeast from Slate Creek, crossing Irish Gulch in section 3, T34N/R9W, (crossing back and forth between the two maps three times) to the contour line's intersection with township line T34N/T35N at the northern boundary of section 3, T34N/R9W, on the Trinity Dam map;

(34) Continue generally northwest on the meandering 900-meter contour line and cross onto the Rush Creek Lakes map in section 34, T35N/R9W; continue northwesterly on the contour line over Cummings Creek, Bear Gulch, Snowslide Gulch, Sawmill Creek, and Van Matre Creek; cross onto the Siligo Peak, California, quadrangle map and continue generally northwest on the 900-meter contour line over Middle Creek and Owens Creek to the contour line's intersection with Stuart Fork;

(35) Continue generally southeast on the 900-meter contour line over Fire Camp Creek, Lightning Creek, and Sunday Creek; cross onto the Rush Creek Lakes map and continue generally southeast on the contour line over Elk Gulch and Trinity Alps Creek; cross onto the Trinity Dam map in section 27, T35N/R9W, and proceed easterly along the contour line to its intersection with the eastern boundary of section 27, T35N/R9W;

(36) Continue generally north along the 900-meter contour line through sections 26 and 23, T35N/R9W, cross onto the Covington Mill, California, quadrangle map in section 23, T35N/R9W, and continue northerly along the contour line to its intersection with Stoney Creek in the same section;

(37) From Stoney Creek, continue generally south on the 900-meter contour line, cross back onto the Trinity Dam map in section 23, T35N/R9W, and continue southerly on the contour line through sections 23, 26, and 35 to the contour line's intersection with the eastern boundary of section 35, T35N/R9W, near that section's northeast corner;

(38) Continue generally northeast on the meandering 900-meter contour line over Telephone Ridge, Buck Gulch, and Buck Ridge; cross onto the Covington Mill map in section 19, T35N/R8W, and continue northwesterly along the contour line across Mule Creek and Snowslide Gulch in section 13, T35N/R9W; continue on the contour line, cross Little Mule Creek in section 18, T35N/R8W, and continue southeasterly on the contour line to its intersection with a line marked ''TRANS LINE SINGLE WOOD POLES'' in section 20, T35N/R8W;

(39) Continue generally northeast along the 900-meter contour line through sections 20 and 17, T35N/R8W, and cross Strope Creek, Mosquito Gulch, Greenhorn Gulch, Taylor Gulch, Stuart Fork (in section 5, T35N/R8W),

and Davis Creek; cross onto the Trinity Center map in section 35, T36/R8W, and continue on the contour line to its intersection with the northern boundary of that section;

(40) Proceed due east along the northern boundary of sections 35 and 36, T36N/R8W, to the R8W/R7W range line at the northeast corner of section 36;

(41) Follow the R8W/R7W range line due north onto the Carrville map and continue along the range line to its intersection with township line T38N/T37N at the northwest corner of section 6, T37N/R7W; and

(42) Proceed due east along township line T38N/T37N and return to the beginning point at the northwest corner of section 5, T37N/R7W.

[T.D. TTB–24, 70 FR 9530, Feb. 28, 2005]

### § 9.185 Texoma.

(a) *Name.* The name of the viticultural area described in this section is ''Texoma''. For purposes of part 4 of this chapter, ''Texoma'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Texoma viticultural area are two United States Geological Survey, 1:250,000 scale, topographic maps. They are titled:

(1) Sherman, Texas; Oklahoma, 1954, revised 1977; and

(2) Texarkana, Tex.; Ark.; Okla.; La., 1953, revised 1972.

(c) *Boundary.* The Texoma viticultural area is located in Montague, Cooke, Grayson, and Fannin Counties, Texas. The boundary is defined as follows:

(1) The beginning point is the northwest corner of Montague County (at the Red River, which is also the Texas-Oklahoma State line) on the Sherman map. From this point, the boundary line:

(2) Follows the Red River eastward along the Texas-Oklahoma State line, passes onto the Texarkana map, and continues to the northeast corner of Fannin County; then

(3) Continues southward along the eastern Fannin County line to a point approximately three miles west of Petty, Texas, where a power line shown on the Texarkana map crosses the county line; then

(4) Continues southwest in a straight line for approximately 13 miles to the intersection of State Routes 34/50 and State Route 64 at Ladonia, Texas; then

(5) Follows State Route 34 west to its intersection with State Route 68; then

(6) Continues west-southwesterly in a straight line from that intersection to the intersection of U.S. Highway 69 and State Route 78 at Leonard, Texas, on the Sherman map; then

(7) Continues northwest on U.S. Highway 69 for approximately 6 miles to the intersection of U.S. Highway 69 and State Route 121 at Trenton, Texas; then

(8) Continues westerly in a straight line to the intersection of State Routes 160 and 121, and then continues west on State Route 121 to its intersection with U.S. Highway 75 at Van Alstyne, Texas; then

(9) Continues south along U.S. Highway 75 to the Grayson County line; then

(10) Continues west along the southern Grayson County line and then the southern Cooke County line to the county line's intersection with Interstate 35; then

(11) Continues north along Interstate 35 to its intersection with State Route 922 in Valley View, Texas; then

(12) Follows State Route 922 west for approximately 17 miles to Rosston, Texas; then

(13) Continues west-southwest from Rosston in a straight line for approximately 19 miles to the intersection of U.S. Highway 287 and State Route 101 at Sunset, Texas; then

(14) Follows U.S. 287 northwest approximately 17 miles to the western Montague County line; and

(15) Continues north along the western Montague County line to the beginning point at the northwest corner of Montague County.

[T.D. TTB–38, 70 FR 72716, Dec. 7, 2005]

### § 9.186 Niagara Escarpment.

(a) *Name.* The name of the viticultural area described in this section is ''Niagara Escarpment''. For purposes of part 4 of this chapter, ''Niagara Escarpment'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of

the ''Niagara Escarpment'' viticultural area are five United States Geological Survey 1:250,000 scale topographic maps. They are titled:

(1) Lewiston, New York—Ontario, 1980;

(2) Ransomville, New York, 1980;

(3) Cambria, New York, 1980;

(4) Lockport, New York, 1980; and

(5) Gasport, New York, 1979.

(c) *Boundary*. The Niagara Escarpment viticultural area is located in Niagara County, New York. The boundary of the Niagara Escarpment viticultural area is as described below:

(1) On the Lewiston map, south of the village of Lewiston within the Brydges State Artpark, begin on the east bank of the Niagara River at the mouth of Fish Creek; then

(2) Proceed north along the east bank of the Niagara River about 0.6 mile to the northern boundary of the Brydges State Artpark; then

(3) Proceed east along the northern boundary of the Brydges State Artpark about 0.8 mile to the park's northeast corner, and continue east in a straight line a short distance to the Robert Moses Parkway; then

(4) Proceed north along the Robert Moses Parkway about 0.25 mile to Ridge Road, and then east on Ridge Road (State Route 104) about 0.15 mile to the road's first intersection with the 400-foot contour line; then

(5) Continue easterly along the 400-foot contour line, through the Ransomville map (crossing Model City Road, Dickersonville Road, and State Route 429) and the Cambria map (crossing Baer Road, Plank Road, and State Route 93/270), and pass onto the Lockport map to the contour line's junction with Sunset Drive; then

(6) Proceed north on Sunset Drive 0.3 mile to its intersection with Stone Road, then east on Stone Road about 1.25 miles (crossing Eighteenmile Creek) to the intersection of Stone, Purdy, and Old Niagara Roads, and continue east along Old Niagara Road about 0.4 mile to its first intersection with the 400-foot contour line; then

(7) Proceed northeasterly along the 400-foot contour line to its first junction with Slayton Settlement Road, proceed east on Slayton Settlement Road to Day Road, and then proceed north on Day Road to its first junction with the 400-foot contour line; then

(8) Proceed easterly along the 400-foot contour line, pass onto the Gasport map (crossing Humphrey and Orangeport Roads), and continue to the contour line's junction with Quaker Road; then

(9) Proceed north on Quaker Road about 0.4 mile to its intersection with State Route 104, and then east on State Route 104 to its intersection with Johnson Creek (at the village of Johnson Creek); then

(10) Proceed south along Johnson Creek (crossing the Erie Canal), to the creek's junction with Mountain Road; then

(11) Proceed west on Mountain Road to its intersection with Gasport Road, then south on Gasport Road to its intersection with Mill Road, then west on Mill Road to its intersection with Kayner Road, then north on Kayner Road 0.65 mile to its junction with the 600-foot contour line; then

(12) Proceed westerly along the 600-foot contour line (crossing Cottage Road) to its junction with State Route 31, and continue west on State Route 31, passing onto the Lockport map and crossing the Erie Canal within the city of Lockport, to the intersection of State Route 31 and Upper Mountain Road; then

(13) Proceed north-northwesterly on Upper Mountain Road 0.65 mile and then northerly on Sunset Drive 0.25 mile to the junction of Sunset Drive and the 600-foot contour line; then

(14) Proceed westerly along the 600-foot contour line, continuing through the Cambria map (crossing State Route 93/270 and then Blackman and Baer Roads), through the Ransomville map (crossing State Route 429 just north of Pekin and then crossing Black Nose Spring and Model City Roads), and, passing onto the Lewiston map, continue westward along the contour line (through the Escarpment, Ramsey Ridge, and Lewiston Heights subdivisions), to the contour line's junction with Mountain View Drive (just east of State Highway 104 near the Niagara Falls Country Club); then

(15) Proceed west along Mountain View Drive to its intersection with State Route 104, and then proceed

south on State Route 104 to its junction with Fish Creek; then

(16) Proceed westerly along Fish Creek and return to the beginning point on the east bank of the Niagara River at the mouth of Fish Creek.

[T.D. TTB–33, 70 FR 53303, Sept. 8, 2005]

### § 9.187 Covelo.

(a) *Name.* The name of the viticultural area described in this section is ''Covelo''. For purposes of part 4 of this chapter, ''Covelo'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Covelo viticultural area are four United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Dos Rios, California Quadrangle,—Mendocino Co., 7.5 Minute Series, edition of 1967, revised 1994;

(2) Covelo West, California Quadrangle,—Mendocino Co., 7.5 Minute Series, edition of 1967, photoinspected 1973;

(3) Covelo East, California Quadrangle,—Mendocino Co., 7.5 Minute Series, edition of 1967, revised 1994; and

(4) Jamison Ridge, California Quadrangle,—Mendocino Co., 7.5 Minute Series, edition of 1967, revised 1994.

(c) *Boundary.* The Covelo viticultural area surrounds the town of Covelo in northern Mendocino County, California. The area's boundaries are defined as follows—

(1) Beginning on the Dos Rios map at the intersection of State Highway 162 and the southern boundary of section 25, T22N, R13W (labeled Inspiration Point on the map), proceed west 0.3 miles on Highway 162 to BM 2006 in section 36, T22N, R13W; then

(2) Proceed straight west-northwest 1.5 miles to the 2,537-foot elevation point in the northwest quadrant of section 26, T22N, R13W, Dos Rios map; then

(3) Proceed straight northwest 1.6 miles to the 2,488-foot peak in the northwest quadrant of section 22, T22N, R13W, Covelo West map; then

(4) Proceed straight north-northwest 0.75 miles to the 2,262-foot peak on the section 15 and 16 boundary line, T22N, R13W, and continue straight north 1.6 miles to the 2,247-foot peak on the section 3 and 4 boundary line, T22N, R13W, Covelo West map; then

(5) Proceed straight northerly 1 mile to the 1,974-foot peak on the T22N/T23N boundary line, and continue straight north 1.6 miles to the 2,290-foot peak in the northwest quadrant of section 27, T23N, R13W, Covelo West map; then

(6) Proceed straight northeast 1.2 miles to the 2,397-foot peak in the northeast quadrant of section 22, and continue straight northeast 1.5 miles to BM 2210 in the northeast quadrant of section 14, T23N, R13W, Covelo West map; then

(7) Proceed straight east-southeast 1.75 miles to the 2,792-foot peak in the southwest quadrant of section 18, T23, R12W, Covelo East map; then

(8) Proceed straight north-northeasterly 0.9 mile to the 2,430-foot elevation point in the southeast quadrant of section 7, T23N, R12W, Covelo East map; then

(9) Proceed straight east-northeast 1.6 miles to the peak of Coyote Rock in section 9, T23N, R12W, Covelo East map; then

(10) Proceed straight east-southeast 1.55 miles to the 2,435-foot elevation point in the northern half of section 15, and continue straight southeast 2.3 miles to the 2,066-foot peak in the southwest quadrant of section 24, T23N, R12W, Covelo East map; then

(11) Proceed straight south-southwest 0.6 mile to the 2,024-foot peak near the section 26 eastern boundary line, T23N, R12W, Covelo East map; then

(12) Proceed straight west-southwest 1.9 miles to the 2,183-foot peak in the northwest quadrant of section 34, T23N, R12W, Covelo East map; then

(13) Proceed straight south-southeast 1.2 miles to the 1,953-foot peak in the northeast quadrant of section 3, T22N, R12W, Covelo East map; then

(14) Proceed straight southerly 0.9 mile to the 2,012-foot peak in the northeast quadrant of section 10, T22N, R12W, Covelo East map; then

(15) Proceed straight south-southeast 1.4 miles along Dingman Ridge to the 2,228-foot peak along the section 14 and 15 boundary line, T22N, R12W, Covelo East map; then

(16) Proceed straight southeast 0.95 mile to the 2,398-foot peak in the

northeast quadrant of section 23, T22N, R12W, Covelo East map; then

(17) Proceed straight south-southeast 1.75 miles to the 2,474-foot elevation point along the section 25 and 26 boundary line, T22N, R12W, Jamison Ridge map; then

(18) Proceed straight west-southwest 0.9 mile to BM 2217 in the southwest quadrant of section 26, and continue straight westerly 1.5 miles to the 2,230-foot peak northwest of Iron Spring, in the southeast quadrant of section 28, T22N, R12W, Jamison Ridge map; then

(19) Proceed straight southwest 0.65 mile to the 2,022-foot peak very near an unimproved road in section 33, T22N, R12W, Jamison Ridge map; then

(20) Proceed straight west-northwest 1.5 miles to the 1,762-foot peak in the northeast quadrant of section 31, T22N, R12W, Jamison Ridge map, and continue in the same line of direction 1.1 miles to the beginning point at the intersection of State Highway 162 and the southern boundary of section 25, T22N, R13W (labeled Inspiration Point), on the Dos Rios map.

[T.D. TTB–42, 71 FR 8205, Feb. 16, 2006]

### §9.188 Horse Heaven Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Horse Heaven Hills''. For purposes of part 4 of this chapter, ''Horse Heaven Hills'' and ''Horse Heaven'' are terms of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Horse Heaven Hills viticultural area are 28 United States Geological Survey (USGS) 1:24,000 scale topographic maps. They are titled:

(1) Umatilla Quadrangle, Oregon—Washington, 1993;

(2) Irrigon Quadrangle, Oregon—Washington, 1993;

(3) Paterson Quadrangle, Washington—Oregon, 1993;

(4) West of Paterson Quadrangle, Washington—Oregon, 1993;

(5) Boardman Quadrangle, Oregon—Washington, 1993;

(6) Crow Butte Quadrangle, Washington—Oregon, 1993;

(7) Golgotha Butte Quadrangle, Washington—Oregon, 1993;

(8) Heppner Junction Quadrangle, Oregon—Washington, 1962, photo revised, 1970;

(9) Wood Gulch Quadrangle, Washington—Oregon, 1962, photo revised 1970, photo inspected 1975;

(10) Crider Valley Quadrangle, Washington, 1962;

(11) Douty Canyon Quadrangle, Washington, 1962;

(12) Tule Prong Quadrangle, Washington, 1965;

(13) Prosser SW Quadrangle, Washington, 1965, photo inspected 1975;

(14) Mabton West Quadrangle, Washington, 1965;

(15) Mabton East Quadrangle, Washington, 1965;

(16) Prosser Quadrangle, Washington, 1965;

(17) Whitstran Quadrangle, Washington, 1965;

(18) Whitstran NE Quadrangle, Washington, 1965;

(19) Corral Canyon Quadrangle, Washington, 1977;

(20) Webber Canyon Quadrangle, Washington, 1965;

(21) Badger Mountain Quadrangle, Washington, 1965, photo revised 1978;

(22) Taylor Canyon Quadrangle, Washington, 1965;

(23) Johnson Butte Quadrangle, 1964, photo revised 1978;

(24) Nine Canyon Quadrangle, 1964;

(25) Wallula Quadrangle, 1992;

(26) Juniper Canyon Quadrangle, 1966, photo revised 1978;

(27) Juniper Quadrangle, 1993; and

(28) Hat Rock Quadrangle, 1993.

(c) *Boundary.* The Horse Heaven Hills viticultural area is located in portions of Benton, Klickitat, and Yakima Counties, Washington. The boundary of the Horse Heaven Hills viticultural area is described below:

(1) Beginning on the Umatilla map at the intersection of Interstate Highway 82 and the north bank of the Columbia River in Benton County, Washington, proceed westerly (downstream) along the river's north bank, passing through the Irrigon, Paterson, West of Paterson, Boardman, Crow Butte, and Golgotha Butte maps, to the mouth of Pine Creek in section 32, T4N/R22E, on the Heppner Junction map in Klickitat County; then

(2) Follow Pine Creek northwesterly (upstream) for approximately 7.0 miles to the junction of Pine Creek and the western boundary of section 16, T4N/R21E, on the Wood Gulch map, then continue north along the section boundary to the point where East Road, which coincides with the section line at this point, crosses the 1,700-foot contour line, very near the southwestern corner of section 9, T4N, R21E; then

(3) Proceed northeasterly along the meandering 1,700-foot contour line through, and crossing between, the Crider Valley and Douty Canyon maps (crossing Alder Creek, Stegeman Canyon, Spring Canyon, Sand Ridge, and Willow Creek) to the point where the 1,700-foot contour line intersects Sand Ridge Road in section 4, T5N, R22E, on the Douty Canyon map; then

(4) Continue north-northeasterly along the meandering 1,700-foot contour line through, and crossing between, the Tule Prong and Douty Canyon maps (crossing Tule Canyon, Tule Prong, and Dead Canyon) to the contour line's intersection with Alderdale Road in section 31, T7N/R23E, northeast of Coyote Canyon, on the Prosser SW map in Yakima County; then

(5) Follow Alderdale Road northwest, returning to the Tule Prong map, and continue northwest and then north along Alderdale Road to its intersection with Wandling Road in section 2, T7N/R22E; then

(6) From that intersection, proceed northeasterly in a straight line to the 2,011-foot peak near the northwest corner of section 1, T7N/R22E, on the Mabton West map, and continue northeasterly in a straight line to the 1,989-foot peak in the southeast corner of section 36, T8N/R22E, on the Mabton East map; then

(7) From that peak, proceed easterly in a straight line through the 1,860-foot benchmark along side Township Road in section 31, T8N/R23E, to the 2,009-foot peak in section 32, T8N/R23E, then northerly in a straight line to the 2,011-foot peak in the same section, then easterly to the 1,850 foot peak in the northwest quadrant of section 33, T8N/R23E, then east-northeasterly to the 1,964-foot peak beside the western boundary of section 27, T8N/R23E, then east-northeasterly through the 2,031-foot peak in the northwest corner of section 26, T8N/R23E, to the 2,064-foot peak in the northern portion of the same section; then

(8) From that peak, proceed east-southeast to the 2,093 foot peak in the northeastern quadrant of section 25, T8N/R23E on the Prosser map, then northeasterly in a straight line to the 2,193-foot peak of Horse Hill in the northeast corner of section 25, T8N/R23E, then northeasterly in a straight line, crossing into Benton County, to the 2,107-foot peak in section 19, T8N/R24E, then easterly to the 2,081-foot peak in section 21, T8N/R24E, then east-northeasterly through the 1,813-foot peak near the northwest corner of section 13, T8N/R24E, to the 1,861-foot peak marked with radio towers near the southern boundary of section 12, T8N/R24E; then

(9) From that peak, proceed northeasterly in a straight line to an unmarked 1,410-foot summit in the northeast corner of section 7, T8N/R25E, on the Whitstran map, then east-southeasterly to the 1,637-foot peak near the center of section 8, T8N/R25E, and then north-northeasterly to the intersection of State Route 221 and Carter Road near the southeast corner of section 5, T8N/R25E; then

(10) Follow Carter Road northerly to the point where it becomes an unimproved road and continue northerly then easterly along the unimproved road to the 1,854-foot peak of Gibbon Hill in the northeast corner of section 4, T8N/R25E; then

(11) From that peak, proceed east-northeasterly in a straight line through the 1,745-foot peak in section 35, T9N/R25E, to the 1,976-foot peak in section 36, T9N/R25E, then east-northeasterly in a straight line onto the Whitstran NE map through the 1,808-foot peak in section 30, T9N/R26E, to the 1,818-foot peak in the same section; then

(12) From that peak, proceed due north in a straight line to the jeep trail above the 1,750-foot contour line near the northeast corner of section 30, T9N/R26E; then

(13) Follow the jeep trail east-northeasterly to the 2,046-foot peak of Chandler Butte in section 21, T9N/R26E, then

east-northeasterly and then southeasterly along the jeep trail through sections 22 and 23, T9N/R26E, on the Corral Canyon map, to the intersection of the jeep trail and McBee Grade road near the gravel pit in the southeast corner of section 23, T9N/R26E, on the Whitstran NE map; then

(14) From that intersection, proceed southeasterly in a series of straight lines through the 1,689-foot peak in the southeast corner of section 23, T9N/R26E, and the 1,826-foot peak in section 25, T9N/R26E, on the Whitstran map, then, on the Webber Canyon map, through the 1,845-foot peak in section 30, T9N/R27E, the 1,808-foot peak in section 31, T9N/R27E, the 1,745-foot peak in section 32, T9N/R27E, and the 1,572-foot peak of Rome Hill in section 14, T8N/R27E, and then, on the Badger Mountain map, continue in a straight line to the 1,757-foot peak in section 30, T8N/R28E; then

(15) From the 1,757-foot peak, proceed due south in a straight line to the line's intersection with Smith Road near the northern boundary of section 6, T7N/R28E; then

(16) Continue southerly along Smith Road to the road's intersection with Clodfelter Road at the southern boundary of section 6, T7N/R28E, on the Taylor Canyon map; then

(17) Proceed east on Clodfelter Road to its intersection with Williams Road at the eastern boundary of section 5, T7N/R28E, and continue east on Williams Road to its intersection with the 1,800-foot contour line in section 4, T7N/R28E; then

(18) Follow the meandering 1,800-foot contour line southerly then easterly to the contour line's junction with the northeast corner of section 15, T7N/R28E; then

(19) From that point, proceed east-southeasterly in a straight line to the 1,680-foot benchmark in section 17, T7N/R29E, on the Johnson Butte map, and continue east-northeasterly in a straight line through the 2,043-foot peak of Johnson Butte in section 16, T7N/R29E, to the 2,220-foot peak of Jump Off Joe summit in section 12, T7N/R29E; then

(20) From that point, proceed southeasterly in a straight line, through the Nine Canyon map, to the 343-foot benchmark on the bank of the Columbia River at Palmer Pond in section 13, T6N/R30E, on the Wallula map; and then

(21) Follow the north bank of the Columbia River westerly (downstream), through the Juniper Canyon, Juniper, and the Hat Rock maps, to the beginning point at the intersection of Interstate Highway 82 and the north bank of the Columbia River on the Umatilla map.

[T.D. TTB–28, 70 FR 38007, July 1, 2005]

## §9.189 High Valley.

(a) *Name.* The name of the viticultural area described in this section is ''High Valley''. For purposes of part 4 of this chapter, ''High Valley'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the ''High Valley'' viticultural area are three United States Geological Survey (USGS) 1:24,000 scale topographic maps. They are titled:

(1) Clearlake Oaks Quadrangle, California—Lake County; edition of 1958; photorevised 1975, minor revision 1994;

(2) Benmore Canyon Quadrangle, California—Lake County; provisional edition of 1989, minor revision 1994; and

(3) Lucerne Quadrangle, California—Lake County; edition of 1958, photorevised 1975, minor revision 1994.

(c) *Boundary.* The High Valley viticultural area is located in Lake County, California, near the village of Clearlake Oaks. The boundary of the High Valley viticultural area is as described below:

(1) The point of beginning is on the Clearlake Oaks map on the northern boundary line of section 16 (also the southern boundary of the Mendocino National Forest), T14N, R8W, at the intersection of the section line and High Valley Road;

(2) From the beginning point, proceed due east 2.4 miles along the northern boundary lines of sections 16, 15, and 14 (also the southern boundary of the Mendocino National Forest) to the northeast corner of section 14, T14N, R8W; then

(3) Proceed straight east-southeast 3.15 miles to the intersection of the 2,000-foot elevation line and the eastern

boundary of section 17, T14N, R7W; then

(4) Proceed easterly 2.7 miles along the meandering 2,000-foot elevation line to its first intersection with the eastern boundary of section 22, T14N, R7W, on the Benmore Canyon map; then

(5) Proceed due south approximately 300 feet along the eastern boundary of section 22, T14N, R7W, to its intersection with the headwaters of the north branch of the Salt Canyon Creek; then

(6) Proceed easterly 0.4 mile along the north branch of the Salt Canyon Creek to its intersection with the 1,600-foot elevation line in section 23, T14N, R7W; then

(7) Proceed southerly along the meandering 1,600-foot elevation line 4.1 miles to its intersection with State Route 20, just north of Sweet Hollow Creek, in section 35, T14N, R7W; then

(8) Proceed southwest and then west 1.7 miles on State Route 20 to its intersection with the 1,600-foot elevation line just northwest of BM 1634, Wye, in section 3, T13N, R7W; then

(9) Proceed westerly 15.2 miles along the meandering 1,600-foot elevation line, crossing the Clearlake Oaks map, to the elevation line's intersection with an unnamed intermittent stream in Pierce Canyon in the northeast quadrant of section 20, approximately 0.4 mile east of VABM 2533, T14N, R8W, on the Lucerne map; then

(10) Proceed northerly and then northeasterly along the unnamed intermittent stream in Pierce Canyon and then the stream's northern fork approximately 1.6 miles to the northern fork's intersection with the 3,000-foot elevation line in section 16, T14N, R8W, on the Clearlake Oaks map; and then

(11) Proceed straight northeast 0.15 mile, returning to the beginning point.

[T.D. TTB–30, 70 FR 38001, July 1, 2005]

## § 9.190 Red Hill Douglas County, Oregon.

(a) *Name.* The name of the viticultural area described in this section is ''Red Hill Douglas County, Oregon''. For purposes of part 4 of this chapter, ''Red Hill Douglas County, Oregon'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Red Hill Douglas County, Oregon viticultural area are three United States Geological Survey (USGS), 1:24,000 scale, topographic maps. They are:

(1) Sutherlin, OR (Provisional edition 1988);

(2) Scotts Valley, OR (Provisional edition 1987); and

(3) Yoncalla, OR (Provisional edition 1987).

(c) *Boundary.* The Red Hill Douglas County, Oregon viticultural area is located in Douglas County, Oregon, east of Interstate 5 near the hamlet of Rice Hill, between the villages of Yoncalla and Oakland.

(1) Beginning on the Yoncalla map along the southern boundary of section 35, T23S/R5W, at the point where a pipeline crosses the T23S/T24S township line, proceed due west 0.8 mile along the T23S/T24S township line to its intersection with the 800-foot contour line just west of Pollock Creek in section 34, T23S/R5W (Yoncalla Quadrangle); then

(2) Proceed southerly along the meandering 800-foot contour line, cross onto the Sutherlin map in section 10, T24S/R5W, and continue westerly along the 800-foot contour line to its first intersection with the eastern boundary of section 8, T24S/R5W (Sutherlin Quadrangle); then

(3) Proceed northerly along the meandering 800-foot contour line, return to the Yoncalla map in section 9, T23S/R5W, and continue northerly along the 800-foot contour line to its intersection with the T23S/T24S township line very near the northwest corner of section 4, T24S/R5W (Yoncalla Quadrangle); then

(4) Proceed northeasterly along the 800-foot contour line, cross Wilson Creek in the northern portion of section 23, T23S/R5W, pass onto the Scotts Valley map at Section 14, T23S/R5W, and continue northeasterly along the 800-foot contour line to its intersection with the R4W/R5W range line, which at that point is also the eastern boundary of section 1, T23S/R5W (Scotts Valley Quadrangle); then

(5) Proceed southwesterly along the 800-foot contour line, re-cross the R4W/R5W range line, and continue to the

second intersection of the 800-foot contour line and the pipeline in section 1, T23/R5W (Scotts Valley Quadrangle); then

(6) Proceed 5.75 miles southwesterly along the pipeline, cross Wilson Creek in section 24, T23S/R5W, return to the Yoncalla map in section 26, T23S/R5W, and continue southwesterly along the pipeline to the point of beginning at the intersection of the pipeline intersection and the T23S/T24S township line in section 35, T23S/R5W (Yoncalla Quadrangle).

[T.D. TTB–35, 70 FR 60001, Oct. 14, 2005]

### §9.191 Ramona Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Ramona Valley''. For purposes of part 4 of this chapter, ''Ramona Valley'' is a term of viticultural significance.

(b) *Approved Maps.* The two United States Geological Survey 1:100,000 scale topographic (30 × 60 Minute Quadrangle) maps used to determine the boundaries of the Ramona Valley viticultural area are titled—

(1) Borrego Valley, California, 1982 edition; and

(2) El Cajon, California, 1979 edition.

(c) *Boundary.* The Ramona Valley viticultural area is located in central San Diego County, California. The area's boundaries are defined as follows—

(1) Beginning in the southwest corner of the Borrego Valley map at the 882-meter (2,894-foot) peak of Woodson Mountain, T13S, R1W, proceed straight north-northwest approximately 3.25 miles to the 652-meter (2,140-foot) peak of Starvation Mountain, T13S, R1W (Borrego Valley map); then

(2) Proceed straight east-northeast approximately 12.5 miles to the Gaging Station on the northwest shoreline of Sutherland Lake, T12S, R2E (Borrego Valley map); then

(3) Proceed straight southeast approximately 4.4 miles to the 999-meter (3,278-foot) peak of Witch Creek Mountain, T13S, R2E, east of Ballena Valley (Borrego Valley map); then

(4) Proceed straight south-southeasterly approximately 6.6 miles, crossing onto the El Cajon map, to the summit of Eagle Peak (3,166 feet), T14S, R3E, northeast of the El Capitan Reservoir (El Cajon map); then

(5) Proceed straight west-southwest approximately 12.7 miles, passing through Barona Valley, to the peak (1,002 feet) near the center of the unnamed island in the San Vicente Reservoir, T14S, R1E (El Cajon map); then

(6) Proceed straight northwesterly approximately 3.9 miles to the 822-meter (2,697-foot) peak of Iron Mountain, T14S, R1W (El Cajon map); and

(7) Proceed straight north-northwest approximately 2.8 miles, crossing onto the Borrego Valley map, and return to the beginning point at the peak of Woodson Mountain.

[T.D. TTB–39, 70 FR 72719, Dec. 7, 2005]

### §9.192 Wahluke Slope.

(a) *Name.* The name of the viticultural area described in this section is ''Wahluke Slope''. For purposes of part 4 of this chapter, ''Wahluke Slope'' and ''Wahluke'' are terms of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Wahluke Slope viticultural area are eight United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Beverly Quadrangle, Washington, 1965;

(2) Beverly SE Quadrangle, Washington—Grant Co., 1965;

(3) Smyrna Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(4) Wahatis Peak Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(5) Coyote Rapids Quadrangle, Washington, Provisional Edition 1986;

(6) Vernita Bridge Quadrangle, Washington, Provisional Edition 1986;

(7) Priest Rapids NE Quadrangle, Washington, Provisional Edition 1986; and

(8) Priest Rapids Quadrangle, Washington, 1948; photo revised 1978.

(c) *Boundary.* The Wahluke Slope viticultural area is located in Grant County, Washington. The boundary of the Wahluke Slope viticultural area is as described below:

(1) The beginning point is at the northwest corner of the viticultural

area where the east bank of the Columbia River intersects the north boundary line of section 22, T15N/R23E, on the Beverly map; then

(2) From the beginning point proceed straight east 1.5 miles to the intersection of the section 23 north boundary line and the 1,480-foot elevation line, T15N/R23E, Beverly map; then

(3) Proceed generally east along the meandering 1,480-foot elevation line, crossing the Beverly map, the Beverly SE map, and the Smyrna map, and continue onto the Wahatis Peak map to the intersection of the 1,480-foot elevation line and the eastern boundary line of section 15, which forms a portion of the boundary line of the Hanford Site, T15N/R26E, Wahatis Peak map; then

(4) Proceed generally southwest along the Hanford Site boundary in a series of 90 degree angles, crossing the Wahatis map, the Coyote Rapids map in section 36, T15N/R25E, and the Vernita Bridge map, and continue onto the Priest Rapids NE map to the intersection of the Hanford Site boundary and the north bank of the Columbia River, section 10, T13N/R24E, Priest Rapids NE map; then

(5) Proceed generally west along the north bank of the Columbia River, crossing onto the Priest Rapids map and, turning north-northwest, continue along the river bank and, crossing onto the Beverly map, return to the beginning point.

[T.D. TTB–40, 70 FR 72710, Dec. 7, 2005]

### § 9.193 Rattlesnake Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Rattlesnake Hills''. For purposes of part 4 of this chapter, ''Rattlesnake Hills'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Rattlesnake Hills viticultural area are eight United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Yakima East Quadrangle, Washington—Yakima Co., 1953, photorevised 1985;

(2) Elephant Mountain Quadrangle, Washington—Yakima Co., 1953, photorevised 1985;

(3) Granger NW Quadrangle, Washington—Yakima Co., 1965;

(4) Granger NE Quadrangle, Washington—Yakima Co., 1964;

(5) Sunnyside Quadrangle, Washington—Yakima Co., 1965, photorevised 1978;

(6) Granger Quadrangle, Washington—Yakima Co., 1965;

(7) Toppenish Quadrangle, Washington—Yakima Co., 1958, photorevised 1985; and

(8) Wapato Quadrangle, Washington—Yakima Co., 1958, photorevised 1985.

(c) *Boundary.* The Rattlesnake Hills viticultural area is located in Yakima County, Washington. The area's boundary is defined as follows:

(1) The beginning point is on the Yakima East map at the point where a line drawn straight east from the west end of the Wapato Dam on the Yakima River intersects Interstate Highway 82, section 17, T12N/R19E. This line coincides with the boundary of the Yakima Valley viticultural area (27 CFR 9.69). From the beginning point, the Rattlesnake Hills viticultural area boundary line—

(2) Proceeds straight eastward, crossing onto the Elephant Mountain map, to the 2,192-foot peak of Elephant Mountain, section 16, T12N/R20E; then

(3) Continues straight east-southeast, crossing over the northeast corner of the Toppenish map, and continuing onto the Granger NW map, to the 2,186-foot pinnacle of Zillah Peak, section 32, T12N/R21E; then

(4) Continues straight eastward, crossing onto the Granger NE map, to the 3,021-foot peak of High Top Mountain, section 32, T12N/R22E; then

(5) Continues straight east-southeast to the 2,879-foot peak in the northeast quadrant of section 3, T11N/R22E, and continues in the same direction in a straight line until the line intersects with the 120°00′ west longitude line in section 1 of T11N/R22E along the east margin of the Granger NE map; then

(6) Proceeds straight south along the 120°00′ west longitude line to its intersection with a set of power lines in section 24, T11N/R22E, on the east margin of the Granger NE map; then

(7) Follows the power lines southwest, crossing onto the Sunnyside map,

to their intersection with the Sunnyside Canal, section 8, T10N/R22E; then

(8) Follows the meandering Sunnyside Canal generally northwest, crossing over the northeast corner of the Granger map, and continuing over the Granger NW map, the Toppenish map, and onto the Wapato map to the canal's intersection with Interstate Highway 82, section 27 west boundary line, T12N/R19E; then

(9) Follows Interstate Highway 82 northwest for 2.75 miles, crosses onto the Yakima East map, and returns to the beginning point.

[T.D. TTB–43, 71 FR 8211, Feb. 16, 2006]

### §9.194 San Antonio Valley.

(a) *Name.* The name of the viticultural area described in this section is ''San Antonio Valley''. For purposes of part 4 of this chapter, ''San Antonio Valley'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Antonio Valley viticultural area are ten United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Hames Valley, California, 1949, photorevised 1978;

(2) Tierra Redonda Mountain, California, 1949, photorevised 1979;

(3) Bradley, California, 1949, photorevised 1979;

(4) Bryson, California, 1949, photorevised 1979;

(5) Williams Hill, California, 1949, photorevised 1979;

(6) Jolon, California, 1949;

(7) Alder Peak, California, 1995;

(8) Bear Canyon, California, 1949, photoinspected 1972;

(9) Cosio Knob, California, 1949, photorevised 1984; and

(10) Espinosa Canyon, California, 1949, photorevised 1979.

(c) *Boundary.* The San Antonio Valley viticultural area is located in Monterey County, California. The boundary of the San Antonio Valley viticultural area is as described below:

(1) The beginning point is at the southeast corner of section 14, T23S, R9E, on the Hames Valley map;

(2) From the beginning point, proceed southeast in a straight line for approximately 5 miles across sections 24 and 25, T23S, R9E, and sections 30, 31, and 32, T23S, R10E, and section 5, T24S, R10E, to the southeast corner of section 5, on the Tierra Redonda Mountain map; then

(3) Continue southeast in a straight line for approximately 3.25 miles through sections 9, 16, 15, and 22, T24S, R10E, to the mid-point of the eastern boundary of section 22 on the Bradley map; then

(4) Proceed straight south for approximately 2.5 miles along the eastern boundary line of sections 22, 27, and 34, T24S, R10E, to the Monterey-San Luis Obispo County line; then

(5) Follow the Monterey-San Luis Obispo County line west for approximately 7.0 miles, back onto the Tierra Redonda Mountain map, to the southwest corner of section 34, T24S, R9E; then

(6) Proceed northwest in a straight line for approximately 17 miles, crossing sections 33, 32, 29, 30, and 19, T24S, R9E, and sections 24, 13, 14, 10, 9, and 4, T24S, R8E, on the Bryson map, section 5, T24S, R8E in the southwest corner of the Williams Hill map, section 32, T23S, and sections 23, 22, 15, and 16, T23S, R7E, on the Jolon map, to an 1,890-foot peak located approximately 2,100 feet west of section 8, T23S, R7E; then

(7) Continue northwest in a straight line for approximately 9 miles, crossing the Alder Peak map between Milpitas Grant and Stony Valley, and sections 9, 4, and 5, T22S, R6E, on the Bear Canyon map, to a 2,713-foot peak located in section 5, T22S, R6E; then

(8) Proceed east-northeast in a straight line for approximately 3.9 miles, passing onto the Hunter Liggett Military Reservation and crossing the San Antonio River, to a 2,449-foot peak on the Hunter Liggett Military Reservation; then

(9) Proceed northeast in a straight line for approximately 2.5 miles, crossing Mission Creek, across sections 30 and 29, T21S, R7E, on the Cosio Knob map to the 2,530-foot peak of Cosio Knob; then

(10) From Cosio Knob, proceed east-southeast in a straight line for approximately 9.5 miles across sections 29, 28, 27, 26, 35, and 36, T21S, R7E, sections 31 and 32, T21S, R8E, and sections 5, 4, 3,

and 2, T22S, R8E, on the Espinosa Canyon map, to a 1,811-foot peak located in section 2; then

(11) Proceed southeast in a straight line for approximately 10.4 miles across sections 2, 11, 12, and 13, T22S, R8E, and sections 18 and 19, T22S, R9E, on the Espinosa Canyon map, sections 19, 30, 29, 32, and 33, T22S, R9E, on the northwest corner of the Williams Hill map, and sections 4, 3, 10, 11, and 14, T23S, R9E, on the Hames Valley map, to the beginning point at the southeast corner of section 14, T23S, R9E.

[T.D. TTB–46, 71 FR 33242, June 8, 2006]

### § 9.195 Alta Mesa.

(a) *Name.* The name of the viticultural area described in this section is ''Alta Mesa''. For purposes of part 4 of this chapter, ''Alta Mesa'' is a term of viticultural significance.

(b) *Approved maps.* The seven United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Alta Mesa viticultural area are titled—

(1) North Lodi, Calif., 1968, photorevised 1976;

(2) Galt, Calif., 1968, photorevised 1980;

(3) Florin, Calif., 1968, photorevised 1980;

(4) Elk Grove, Calif., 1968, photorevised 1979;

(5) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(6) Clay, Calif., 1968, photorevised 1980, minor revision 1993; and

(7) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993.

(c) *Boundary.* The Alta Mesa viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Alta Mesa viticultural area boundary is as follows:

(1) The beginning point is on the Lodi North map at the intersection of Kost Road and the Southern Pacific railway, section 34, T5N, R6E. From the beginning point, proceed north-northwest 8.7 miles along the Southern Pacific railway to its intersection with State Route 99 at McConnel, section 20, T6N, R6E (Galt Quadrangle); then

(2) Proceed northwest 4.7 miles on State Route 99 to its intersection with Sheldon Road at the northern boundary of section 26, T7N, R5E (Florin Quadrangle); then

(3) Proceed east 5.2 miles on Sheldon Road to its intersection with the Central California Traction railroad at the northern boundary of section 27, T7N, R6E (Elk Grove Quadrangle); then

(4) Proceed southeast 3.85 miles along the Central California Traction railroad to Grant Line Road, then southwest on Grant Line Road to Wilton Road at the hamlet of Sheldon, and then continue southeast on Wilton Road to its intersection with Dillard Road, section 6, T6N, R7E (Elk Grove Quadrangle); then

(5) Proceed northeast 2.6 miles on Dillard Road to its intersection with Lee Shorthorn Road, T7N, R7E (Sloughhouse Quadrangle); then

(6) Proceed southeast 0.9 mile on Lee Shorthorn Road to its intersection with Tavernor Road, T7N, R7E (Sloughhouse Quadrangle); then

(7) Proceed south 0.95 mile on Tavernor Road to its first 90 degree turn to the west (where two unimproved roads join Tavernor Road from the east and south), section 4, T6N, R7E (Sloughhouse Quadrangle); then

(8) Continue due south 1 mile in a straight line to the line's intersection with the 105-foot contour line and an unimproved extension of Blake Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(9) Proceed west 0.3 mile on the unimproved extension of Blake Road to its intersection with Tavernor Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(10) Proceed south 0.7 mile on Tavernor Road to the center of the loop at the end of the road, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(11) Proceed southwest in a straight line for 0.1 mile to the line's intersection with the east end of the landing strip shown in the northwest quadrant of section 16, T6N, R7E (Sloughhouse Quadrangle); then

(12) Proceed west along the landing strip and a line extending from its western end to the line's intersection with Alta Mesa Road on the eastern boundary of section 17, T6N, R7E (Sloughhouse Quadrangle); then

(13) Proceed south 6.1 miles on Alta Mesa Road, crossing State Route 104, to Alta Mesa Road's intersection with Borden Road at the southwest corner of section 9, T5N, R7E (Clay Quadrangle); then

(14) Proceed east 1 mile on Borden Road to its intersection with Alabama Road at the southeast corner of section 9, T5N, R7E (Clay Quadrangle); then

(15) Proceed south 2 miles on Alabama Road to its intersection with Simmerhorn Road at the southeast corner of section 21, T5N, R7E (Clay Quadrangle); then

(16) Proceed east 2 miles on Simmerhorn Road to its intersection with Clay Station Road at the northeast corner of section 26, T5N, R7E (Clay Quadrangle); then

(17) Proceed south 0.5 mile on Clay Station Road to its intersection with Dry Creek, section 26, T5N, R7E (Clay Quadrangle); then

(18) Proceed west-southwest (downstream) 7.8 miles along Dry Creek, crossing over the northwest corner of the Lockeford map, and twice crossing over the southeast corner of the Galt map, to Dry Creek's intersection with Lincoln Way, section 35, T5N, R6E (Lodi North Quadrangle); then

(19) Proceed northwest 0.1 mile on Lincoln Way to its intersection with Kost Road, section 35, T5N, R6E (Lodi North Quadrangle); and

(20) Proceed west 0.3 mile on Kost Road, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

### §9.196 Borden Ranch.

(a) *Name.* The name of the viticultural area described in this section is ''Borden Ranch''. For purposes of part 4 of this chapter, ''Borden Ranch'' is a term of viticultural significance.

(b) *Approved maps.* The six United State Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Borden Ranch viticultural area are titled—

(1) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993;

(2) Clay, Calif., 1968, photorevised 1980, minor revision 1993;

(3) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(4) Carbondale, Calif., 1968, photorevised 1980, minor revision 1993;

(5) Goose Creek, Calif., 1968, photorevised 1980, minor revision 1993; and

(6) Clements, Calif., 1968, minor revision 1993.

(c) *Boundary.* The Borden Ranch viticultural area is located in Sacramento and San Joaquin Counties, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Borden Ranch viticultural area boundary is as follows:

(1) The beginning point is on the Lockeford map at the intersection of Liberty Road and Elliott Road at the southwest corner of section 36, T5N, R7E. From the beginning point, proceed north 2 miles on Elliot Road, which becomes Clay Station Road upon crossing the Sacramento-San Joaquin County line at Dry Creek, to Clay Station Road's intersection with Simmerhorn Road, at the southeast corner of section 23, T5N, R7E (Clay Quadrangle); then

(2) Proceed west 2 miles on Simmerhorn Road to its intersection with Alabama Road at the southwest corner of section 22, T5N, R7E (Clay Quadrangle); then

(3) Proceed north 2 miles on Alabama Road to its intersection with Borden Road at the northwest corner of section 15, T5N, R7E (Clay Quadrangle); then

(4) Proceed west 1 mile on Borden Road to its intersection with Alta Mesa Road at the southwest corner of section 9, T5N, R7E (Clay Quadrangle); then

(5) Proceed north 1.35 miles on Alta Mesa Road, crossing State Route 104, to Alta Mesa Road's intersection with the Laguna tributary along the western boundary line of section 4, T5N, R7E (Clay Quadrangle); then

(6) Proceed easterly (upstream) about 16.5 miles along the meandering Laguna tributary, crossing over the southeast corner of the Sloughhouse map, to the Laguna's intersection with the Sacramento-Amador County line, 0.75 mile south of the Ione Road, T6N, R9E (Carbondale Quadrangle); then

(7) Proceed south and then southeast about 10.8 miles along the Sacramento-Amador and Sacramento-San Joaquin

County lines, crossing over the Goose Creek map, to the County line's intersection with Liberty Road, section 32, T5N, R9E (Clements Quadrangle); and

(8) Proceed west about 9.3 miles west along Liberty Road, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

### § 9.197 Clements Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Clements Hills''. For purposes of part 4 of this chapter, ''Clements Hills'' is a term of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Clements Hills viticultural area are titled—

(1) Waterloo, Calif., 1968, photoinspected 1978;

(2) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993;

(3) Clements, Calif., 1968, minor revision 1993;

(4) Wallace, Calif., 1962;

(5) Valley Springs SW., Calif., 1962, photoinspected 1973; and

(6) Linden, Calif., 1968, minor revision 1993.

(c) *Boundary.* The Clements Hills viticultural area is located in San Joaquin County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Clements Hills viticultural areas boundary is as follows—

(1) The beginning point is on the Waterloo map at the intersection of the Calaveras River and Jack Tone Road, section 31 west boundary line, T3N, R8E. From the beginning point, proceed north 6.9 miles on Jack Tone Road to its intersection with Elliot Road in the village of Lockeford (where Jack Tone Road is known as E. Hammond Street for a short distance), section 30, T4N, R8E (Lockeford Quadrangle); then

(2) Proceed northwest 5.4 miles on Elliott Road, crossing the Mokelumne River, to Elliott Road's intersection with Liberty Road at the northwest corner of section 1, T4N, R7E, (Lockeford Quadrangle); then

(3) Proceed east 9.3 miles on Liberty Road to its junction with the San Joaquin-Amador County line, north of the Camanche Reservoir, section 32, T5N, R9E (Clements Quadrangle); then

(4) Proceed south-southeast 13 miles along the San Joaquin-Amador and San Joaquin-Calaveras County lines, crossing over the Wallace map, to the County line's intersection with the Calaveras River, section 31, T3N, R10E (Valley Springs SW., Quadrangle); and

(5) Proceed southwest (downstream) 14.2 miles along the Calaveras River, crossing over the Linden map, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

### § 9.198 Cosumnes River.

(a) *Name.* The name of the viticultural area described in this section is ''Cosumnes River''. For purposes of part 4 of this chapter, ''Cosumnes River'' and ''Cosumnes'' are terms of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Cosumnes River viticultural area are titled—

(1) Bruceville, Calif., 1968, photorevised 1980;

(2) Florin, Calif., 1968, photorevised 1980;

(3) Elk Grove, Calif., 1968, photorevised 1979;

(4) Galt, Calif., 1968, photorevised 1980;

(5) Lodi North, Calif.,1968, photorevised 1976; and

(6) Thornton, Calif., 1978.

(c) *Boundary.* The Cosumnes River viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Cosumnes River viticultural area boundary is as follows—

(1) The beginning point is on the Bruceville map at the intersection of the Mokelumne River and Interstate Highway 5, T5N, R5E. From the beginning point, proceed north 8.5 miles along Interstate 5 to its intersection with an unnamed light duty road, locally known to the west of Franklin as Hood-Franklin Road, section 18, T6N, R5E (Florin Quadrangle); then

(2) Proceed east 1.2 miles straight on Hood-Franklin Road to its intersection

with Franklin Boulevard in the village of Franklin, section 17, T6N, R5E (Florin Quadrangle); then

(3) Proceed north 4.3 miles on Franklin Boulevard to its intersection with Sims Road on the west and Sheldon Road to the east at the northwest corner of section 28, T7N, R5E (Florin Quadrangle); then

(4) Proceed east 2.4 miles on Sheldon Road to its intersection with State Route 99 at the northern boundary section 26, T7N, R5E (Florin Quadrangle); then

(5) Proceed south-southeast 6 miles on State Route 99, crossing over the Elk Grove map, to the road's intersection with the Southern Pacific railway line at McConnell, section 20, T6N, R6E (Galt Quadrangle); then

(6) Proceed south-southeast 8.7 miles along the Southern Pacific railway line to its intersection with Kost Road, section 34, T5N, R6E (Lodi North Quadrangle); then

(7) Proceed west and then north 3.8 miles on Kost Road to its intersection with New Hope Road, T5N, R6E (Lodi North Quadrangle); then

(8) Proceed west then south 2.8 miles on New Hope Road to its intersection with the Mokelumne River and the Sacramento-San Joaquin County line, T5N, R5E (Thornton Quadrangle); and

(9) Proceed northerly then westerly (downstream) for about 2.7 miles along the meandering Mokelumne River, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

### §9.199 Jahant.

(a) *Name.* The name of the viticultural area described in this section is ''Jahant''. For purposes of part 4 of this chapter, ''Jahant'' is a term of viticultural significance.

(b) *Approved maps.* The five United States Geological Survey, 1:24000 scale, topographic quadrangle maps used to determine the boundary of the Jahant viticultural area are titled—

(1) Lodi North, Calif., 1968, photorevised 1976;

(2) Thornton, Calif., 1978;

(3) Galt, Calif., 1968, photorevised 1980;

(4) Lockeford, Calif., 1968, photorevised 1979; and

(5) Clay, Calif., 1968, photorevised 1980, minor revision 1993.

(c) *Boundary.* The Jahant viticultural area is located in Sacramento and San Joaquin Counties, California, and is entirely with the Lodi viticultural area (27 CFR 9.107). The Jahant viticultural area boundary is as follows—

(1) The beginning point is on the Lodi North map at the intersection of Peltier Road and the Mokelumne River, section 16 south boundary line, T4N, R6E. From the beginning point, proceed westerly (downstream) 6.7 miles along the Mokelumne River to its intersection with New Hope Road, about 0.7 mile north of the village of Thornton, T5N, R5E (Thornton Quadrangle); then

(2) Proceed north then east for 3 miles on New Hope Road to its intersection with Kost Road, T5N, R6E (Lodi North Quadrangle); then

(3) Proceed south then east for 4.1 miles on Kost Road to its intersection with Lincoln Way, section 35, T5N, R6E (Lodi North Quadrangle); then

(4) Proceed southeast 0.15 mile on Lincoln Way to its intersection with Dry Creek, section 35, T5N, R6E (Lodi North Quadrangle); then

(5) Proceed easterly (upstream) 7 miles along Dry Creek, crossing twice over and back at the southeast corner of the Galt map, and then crossing over the northwest corner of the Lockeford map, to Dry Creek's intersection with Elliott Road, section 26, T5N, R7E (Clay Quadrangle); then

(6) Proceed south 4.5 miles on Elliott Road to its intersection with Peltier Road at the southeast corner of section 14, T4N, R7E (Lockeford Quadrangle); and

(7) Proceed west 8.3 miles on Peltier Road, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

### §9.200 Mokelumne River.

(a) *Name.* The name of the viticultural area described in this section is ''Mokelumne River''. For purposes of part 4 of this chapter, ''Mokelumne River'' and ''Mokelumne'' are terms of viticultural significance.

(b) *Approved maps.* The seven United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the

Mokelumne River viticultural area are titled—

(1) Lodi South, Calif., 1968, photorevised 1976;

(2) Terminous, Calif., 1978, minor revision 1993;

(3) Thornton, Calif., 1978;

(4) Bruceville, Calif., 1968, photorevised 1980;

(5) Lodi North, Calif., 1968, photorevised 1976;

(6) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993; and

(7) Waterloo, Calif., edition of 1968, photoinspected 1978.

(c) *Boundary*. The Mokelumne River viticultural area is located in San Joaquin County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Mokelumne River viticultural area boundary is as follows—

(1) The beginning point is on the Lodi South map at the intersection of Eightmile Road and Interstate 5, section 36 south boundary line, T3N, R5E. From the beginning point, proceed north-northwest 14.7 miles on Interstate 5, crossing over the Terminous and Thornton maps, to the Interstate's intersection with the Mokelumne River, T5N, R6E (Bruceville Quadrangle); then

(2) Proceed southeast (upstream) 5 miles along the meandering Mokelumne River to its intersection with Peltier Road, section 16, T4N, R6E (Lodi North Quadrangle); then

(3) Proceed east 8.3 miles along Peltier Road to its intersection with Elliott Road at the northeast corner of section 23, T4N, R7E (Lockeford Quadrangle); then

(4) Proceed south then southeast 2.3 miles on Elliott Road to its intersection with Jack Tone Road in the village of Lockeford (where Jack Tone Road is known as E. Hammond Street for a short distance), section 30, T4N, R8E (Lockeford Quadrangle); then

(5) Proceed south 6.7 miles on Jack Tone Road to its intersection with the Calaveras River, section 36 east boundary line, T3N, R7E (Waterloo Quadrangle); then

(6) Proceed southwesterly (downstream) 0.9 mile along the meandering Calaveras River to its intersection with Eightmile Road, section 36 south boundary line, T3N, R7E (Waterloo Quadrangle); and

(7) Proceed west 8.6 miles on Eightmile Road, returning to the beginning point.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

## § 9.201 Sloughhouse.

(a) *Name*. The name of the viticultural area described in this section is ''Sloughhouse''. For purposes of part 4 of this chapter, ''Sloughhouse'' is a term of viticultural significance.

(b) *Approved maps*. The six United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Sloughhouse viticultural area are titled—

(1) Clay, Calif., 1968, photorevised 1980, minor revision 1993;

(2) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(3) Elk Grove, Calif., 1968, photorevised 1979;

(4) Buffalo Creek, Calif., 1967, photorevised 1980;

(5) Folsom SE, Calif., 1954, photorevised 1980; and

(6) Carbondale, Calif., 1968, photorevised 1980, minor revision 1993.

(c) *Boundary*. The Sloughhouse viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Sloughhouse viticultural area boundary is as follows—

(1) The beginning point is on the Clay map at the intersection of the Laguna estuary and Alta Mesa Road, on the western boundary of section 4, T5N, R7E. From the beginning point, proceed north 4.8 miles on Alta Mesa Road to the road's intersection with a line drawn due west from the western end of the landing strip shown in the northwestern quadrant of section 16, T6N, R7E (Sloughhouse Quadrangle); then

(2) Proceed east 0.5 mile to the eastern end of the landing strip, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(3) Proceed northeast in a straight line 0.1 mile to the center of the loop at the south end of Tavernor Road, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(4) Proceed north 0.75 mile on Tavernor Road to its intersection with Blake Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(5) Proceed east 0.5 mile on the unimproved extension of Blake Road to its intersection with the 105-foot elevation line, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(6) Proceed due north about 0.85 mile to the 90 degree turn in Tavernor Road and continue north about 0.9 mile on Tavernor Road to its intersection with Lee Shorthorn Road, T7N, R7E (Sloughhouse Quadrangle); then

(7) Proceed northwest 0.9 mile on Lee Shorthorn Road to its intersection with Dillard Road, T7N, R7E (Sloughhouse Quadrangle); then

(8) Proceed southwest about 2.6 miles on Dillard Road to its intersection with Wilton Road at the hamlet of Dillard, section 6, T6N, R7E (Elk Grove Quadrangle); then

(9) Proceed northwest 3.1 miles on Wilton Road to its intersection with Grant Line Road at the hamlet of Sheldon, section 27, T7N, R6E (Elk Grove Quadrangle); then

(10) Proceed northwest on Grant Line Road to its intersection with State Route 16 (Jackson Road), section 33, T8N, R7E (Buffalo Creek Quadrangle); then

(11) Proceed east-southeast 1.6 miles on State Route 16 to its intersection with Deer Creek at BM 108 near Sloughhouse, T8N, R7E (Sloughhouse Quadrangle); then

(12) Proceed northeasterly (upstream) about 11 miles along the meandering Deer Creek, crossing over the southeast corner of the Buffalo Creek map, to the creek's intersection with the Sacramento-El Dorado County line, section 1, T8N, R8E (Folsom, S.E. Quadrangle); then

(13) Proceed south-southeast followed by south for about 12.4 miles along the Sacramento-El Dorado and Sacramento-Amador County line to the County line's intersection with the Laguna estuary, 0.75 mile south of the Ione Road, T6N, R9E (Carbondale Quadrangle); and

(14) Proceed westerly (downstream) 17.5 miles along the meandering Laguna estuary, crossing over the Sloughhouse map, and return to the beginning point on the Clay Quadrangle.

[T.D. TTB–50, 71 FR 40414, July 17, 2006]

## §9.202 Eola-Amity Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Eola-Amity Hills''. For purposes of part 4 of this chapter, ''Eola-Amity Hills'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Eola-Amity Hills viticultural area are six United States Geological Survey 1:24,000 scale topographic maps. They are titled—

(1) Rickreall, Oregon, 1969, photorevised 1976;

(2) Salem West, Oregon, 1969, photorevised 1986;

(3) Mission Bottom, Oregon, 1957, revised 1993;

(4) Dayton, Oregon, 1957, revised 1992;

(5) McMinnville, Oregon, 1957, revised 1992; and

(6) Amity, Oregon, 1957, revised 1993.

(c) *Boundary.* The Eola-Amity Hills viticultural area is located in the State of Oregon, within Polk and Yamhill Counties, and is entirely within the Willamette Valley viticultural area. The area's boundary is defined as follows—

(1) The beginning point is on the Rickreall, Oregon, map, at the intersection of State Highways 22 and 223;

(2) From the beginning point, proceed east on State Highway 22 to its intersection with Doaks Ferry Road on the Salem West, Oregon, map; then

(3) Proceed northeast on Doaks Ferry Road to its intersection with the 200-foot contour line southeast of Gibson Gulch, in section 65; then

(4) Follow the 200-foot contour line in a westerly loop until it rejoins Doaks Ferry Road; then

(5) Continue north on Doaks Ferry Road to its intersection with State Highway 221; then

(6) Continue north on State Highway 221 to its intersection with the 200-foot contour line at the point where the contour line departs from Highway 221 and runs southwest along the southern edge of Spring Valley (section 53 on the Mission Bottom, Oregon, map); then

(7) Follow the 200-foot contour line first south onto the Salem West, Oregon, map, then northwest around the southern and western edge of Spring Valley and back on to the Mission Bottom, Oregon, map; then

(8) Continue to follow the 200-foot contour line generally north on the Mission Bottom, Oregon, map, crossing onto and back from the Amity, Oregon, map and continue past the Yamhill County line and onto the Dayton, Oregon, map; then

(9) Follow the 200-foot contour line from the Dayton, Oregon, map onto the McMinnville, Oregon, map and back to the Dayton, Oregon, map and continue around the northeast edge of the Amity Hills spur of the Eola Hills; then

(10) Follow the 200-foot contour line onto the McMinnville, Oregon, map as it continues around the northern and western periphery of the Amity Hills spur; then

(11) Follow the 200-foot contour line onto the Amity, Oregon, map as it heads first south, then generally southeast, then generally south, along the western edge of the Eola Hills until it intersects Old Bethel Road at a point just north of the Polk County line; then

(12) Follow Old Bethel Road, which becomes Oak Grove Road, south until it intersects with the 200-foot contour line just northwest of the township of Bethel; then

(13) Follow the 200-foot contour line around in a southeasterly loop until it again intersects Oak Grove Road where Oak Grove and Zena Roads intersect; then

(14) Follow Oak Grove Road south until it intersects with Frizzell Road; then

(15) Follow Frizzell Road west for three-tenths mile until it intersects with the 200-foot contour line; then

(16) Follow the 200-foot contour line generally south until it intersects with the beginning point.

[T.D. TTB–51, 71 FR 40404, July 17, 2006]

### § 9.203 Saddle Rock-Malibu.

(a) *Name.* The name of the viticultural area described in this section is ''Saddle Rock-Malibu''. For purposes of part 4 of this chapter, ''Saddle Rock-Malibu'' is a term of viticultural significance.

(b) *Approved Map.* The following United States Geological Survey, 1:24,000 scale, topographic map is used to determine the boundary of the Saddle Rock-Malibu viticultural area: Point Dume Quadrangle California, 7.5–Minute Series (Orthophotoquad), 1995.

(c) *Boundary.* The Saddle Rock-Malibu viticultural area is located in Los Angeles County, California. The boundary of the Saddle Rock-Malibu viticultural area is as described below:

(1) The beginning point is on the Point Dume map at the intersection of Decker Road and Mulholland Highway, section 3, T1S/R19W;

(2) From the beginning point, proceed north-northeast along Decker Road approximately 0.7 mile to its intersection with the southern boundary of the El Conejo land grant, section 3, T1S/R19W; then

(3) Proceed straight east-southeast along the El Conejo land grant boundary line approximately 0.4 mile to the point where the land grant boundary line changes direction to the northeast, section 2, T1S/R19W; then

(4) Proceed straight northeast for approximately 0.5 mile along the El Conejo land grant boundary line to its second intersection with the 1,700-foot contour line in section 2, T1S/R19W; then

(5) Proceed southeasterly along the meandering 1,700-foot contour line, crossing the R19W/R18W range line near the southwest corner of section 6, T1S/R18W, and continue along the 1,700-foot contour line to its intersection with Kanan Road near the southwest corner of section 6, T1S/R18W; then

(6) Proceed south along Kanan Road approximately 0.35 mile to its intersection with the 1,800-foot contour line (very near the intersection of Kanan Road and an unnamed unimproved road), section 7, T1S/R18W; then

(7) Proceed southeasterly along the meandering 1,800-foot contour line to a point approximately 200 feet due north of the intersection of Mulholland Highway and two unnamed, unimproved roads near the center of section 7, T1S/R18W, and, from that point, proceed due south in a straight line to the

intersection of Mulholland Highway and the two unnamed, unimproved roads, section 7, T1S/R18W; then

(8) Following the eastern-most unimproved road, proceed southerly along the meandering unimproved road, passing to the west of a 2,054-foot peak, and continue to the road's intersection with another unnamed, unimproved road immediately south of the section 18 north boundary line and due east of a 2,448-foot peak, section 18, T1S/R18W; then

(9) Proceed southwesterly along the unnamed, unimproved road to its intersection with the Latigo Canyon Road, just east of BM 2125, section 18, T1S/R18W; then

(10) Proceed northerly then westerly along Latigo Canyon Road to its intersection with Kanan Road very near the southeast corner of section 12, T1S/R19W; then

(11) Proceed south along Kanan Road for approximately 0.6 mile to its intersection with the 1,700-foot contour line, located immediately south of the four-way intersection of two unnamed, unimproved roads and Kanan Road, section 13, T1S/R19W; then

(12) Proceed 1.5 miles generally west and northwest along the unnamed, unimproved road that meanders westerly, crossing over several intermittent streams, and continues through Zuma Canyon to its intersection with Encinal Canyon Road at about the 1,806-foot elevation mark, section 11, T1S/R19W; then

(13) Crossing Encinal Canyon Road, proceed northwesterly along the unnamed, unimproved road, which becomes a trail, and continue northerly to the trail's intersection with the 1,900-foot contour line, near the center of section 11, T1S/R19W; then

(14) Proceed northwesterly along the meandering 1,900-foot contour line, circling to the west of the 2,189-foot peak in section 11, to the contour line's intersection with Mulholland Highway at the northern boundary of section 11, T1S/R19W; then

(15) Proceed westerly about 0.8 mile on Mulholland Highway and return to the beginning point.

[T.D. TTB–52, 71 FR 40400, July 17, 2006]

## §9.204 Tracy Hills.

(a) *Tracy Hills.* The name of the viticultural area described in this section is ''Tracy Hills''. For purposes of part 4 of this chapter, ''Tracy Hills'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Tracy Hills viticultural area are five USGS 1:24,000-scale, topographic maps. They are titled:

(1) Tracy, Calif., 1954, photorevised 1981;

(2) Vernalis, CA, 1991;

(3) Solyo, Calif., 1953, photorevised 1971, photoinspected 1978;

(4) Lone Tree Creek, Calif., 1955, photorevised 1971; and

(5) Midway Calif., 1953, photorevised 1980.

(c) *Boundary.* The Tracy Hills viticultural area is located in southwestern San Joaquin County and northwestern Stanislaus County in the State of California. The boundary of the Tracy Hills viticultural area is as described below.

(1) The beginning point is on the Tracy map at the intersection of the Delta-Mendota Canal and Lammers Ferry Road, along the western boundary line of section 6, T3S/R5E. From the beginning point, proceed 0.4 mile generally southeast along the Delta-Mendota Canal to its intersection with the Western Pacific Railway line along the southern boundary line of section 6, T3S/R5E (Tracy map); then

(2) Proceed 5.6 miles straight east along the Western Pacific Railway line and then along Linne Road to the intersection of Linne Road and Lehman Road, along the northern boundary line of section 12, T3S/R5E (Vernalis map); then

(3) Proceed 1.5 miles straight south and then east along Lehman Road to its intersection with Bird Road at the southeast corner of section 12, T3S/R5E (Vernalis map); then

(4) Proceed 1 mile straight south along Bird Road to its intersection with Durham Ferry Road at the southeast corner of section 13, T3S/R5E (Vernalis map); then

(5) Proceed 1.9 miles straight east along Durham Ferry Road to its intersection with State Highway 33 along

the northern boundary line of section 20, T3S/R6E (Vernalis map); then

(6) Proceed 5.1 miles straight southeast along State Highway 33, passing the hamlet of Vernalis, to the highway's intersection with McCracken Road along the eastern boundary of section 2, T4S/R6E (Solyo map); then

(7) Proceed 3.4 miles straight south along McCracken Road to its intersection with Hamilton Road at the southeast corner of section 23, T4S/R6E (Solyo map); then

(8) Proceed 2.4 miles straight west along the southern boundary lines of sections 23, 22, and 21, T4S/R6E, crossing the Delta-Mendota Canal and the California Aqueduct, to the junction of the southern boundary of section 21, the 500-foot elevation line, and the westernmost transmission line, (Solyo map); then

(9) Proceed 4.2 miles generally northwest along the meandering 500-foot elevation line to section 18, T4S/R6E, where the 500-foot elevation line crosses all the transmission lines and then continues northwest a short distance to the easternmost transmission line in the northwest quadrant of section 18, T4S/R6E, (Solyo map); then

(10) Proceed 8.45 miles straight northwest along the easternmost transmission line, crossing from the Solyo map, over the Lone Tree Creek map, to the Tracy map, and continue to the transmission line's intersection with the western boundary of section 19, T3S/R5W, about 0.7 mile north-northeast of Black Butte (Tracy map); then

(11) Proceed in a straight line 2 miles northwest to this line's intersection with the 500-foot elevation line, immediately north of an unimproved dirt road, just north of the midpoint of the western boundary line of section 12, T3S/R4E (Tracy map); then

(12) Proceed 0.65 mile straight north along the western boundaries of section 12 and then section 1 to the section 1 line's intersection with Interstate Highway 580 (I–580), section 1, T3S/R4E (Tracy map); then

(13) Proceed 0.8 mile straight northwest along I–580 to its intersection with the Western Pacific Railway line in section 2, T3S/R4E (Midway map); then

(14) Proceed easterly 0.7 mile along the Western Pacific Railway line to its intersection with the eastern boundary line of section 2, T3S/R4E (Tracy map); and

(15) Proceed east for 1 mile in a straight line, returning to the beginning point.

[T.D. TTB–54, 71 FR 65411, Nov. 8, 2006]

### § 9.205 Chehalem Mountains.

(a) *Name.* The name of the viticultural area described in this section is ''Chehalem Mountains''. For purposes of part 4 of this chapter, ''Chehalem Mountains'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Chehalem Mountains viticultural area are six United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Newberg Quadrangle, Oregon, 7.5 Minute Series, 1961 (photorevised 1985);

(2) Dundee Quadrangle, Oregon, 7.5 Minute Series, 1956 (revised 1993);

(3) Laurelwood Quadrangle, Oregon, 7.5 Minutes Series 1956 (revised 1992);

(4) Scholls Quadrangle, Oregon, 7.5 Minute Series, 1961 (photorevised 1985);

(5) Beaverton Quadrangle, Oregon, 7.5 Minute Series, 1961 (photorevised 1984); and

(6) Sherwood Quadrangle, Oregon, 7.5 Minute Series, 1961 (photorevised 1985).

(c) *Boundary.* The Chehalem Mountains viticultural area is located in Clackamas, Yamhill, and Washington Counties, Oregon. The boundary of the Chehalem Mountains viticultural area is as described below:

(1) The beginning point is in Yamhill County on the Newberg map in section 15, T3S/R2W, at the intersection of Oregon Highway 99W and the 250-foot contour line, 0.4 mile east of Spring Brook;

(2) From the beginning point, proceed northwesterly 1.2 miles along the 250-foot contour to its intersection with an unnamed light-duty road locally known as Benjamin Road, section 50, T3S/R2W, Newberg map; then

(3) Proceed west 0.5 mile along Benjamin Road, crossing railroad tracks, to its intersection with an unnamed light-duty road locally known as Spring Brook Road, section 48, T3S/R2W, Newberg map; then

(4) Proceed southwest 0.3 mile along Spring Brook Road, parallel to the railroad tracks, to its intersection with an unnamed light-duty road locally known as Mountainview Drive, section 48, T3S/R2W, on the Newberg map; then

(5) Proceed west 0.35 mile on Mountainview Drive to its intersection with an unnamed light-duty road locally known as Aspen Way, along the western boundary of section 8, T3S/R2W, Newberg map; then

(6) Proceed northwesterly 1.4 miles on Aspen Way to its intersection with Bell Road, along the northern boundary of section 47, T3S/R2W, Newberg map; then

(7) Proceed west 0.8 mile on Bell Road, which becomes North Valley Road after crossing Oregon Highway 219, to its intersection with the 250-foot contour line, immediately before an unimproved dirt road on the left, section 46, T3S/R2W, Newberg map; then

(8) Proceed westerly 2 miles along the 250-foot contour line to its first intersection with the western boundary line of section 43, T3S/R3W, along the western border of the Newberg map; then

(9) Proceed north 0.2 mile along the western boundary of section 43, T3S/R3W, to its intersection with the 240-foot contour line, Newberg map; then

(10) Proceed westerly for 4 miles along the 240-foot contour line, crossing onto the Dundee map, to its intersection with an unnamed light-duty road locally known as Sullivan Lane, section 74, T3S/R3, Dundee map; then

(11) Proceed south 0.25 mile along Sullivan Lane to its intersection with North Valley Road at elevation point 216, section 74, T3S/R3, Dundee map; then

(12) Proceed west 0.1 mile along North Valley Road to its intersection with the 200-foot contour line, section 74, T3S/R3W, Dundee map; then

(13) Proceed northwesterly 1 mile along the 200-foot contour line to its intersection with an unnamed creek northeast of elevation point 215, and continue northwesterly 0.05 mile along the unnamed creek to its intersection with Dopp Road along the western boundary line of section 74, T3S/R3W, Dundee map; then

(14) Proceed south 0.8 mile along Dopp Road to its intersection with North Valley Road at the elevation point 202 near the Ewing Young School, section 39, T3S/R3W, Dundee map; then

(15) Proceed northerly 5 miles on North Valley Road, crossing onto the Laurelwood map, to the road's intersection with Laughlin Road and Albertson Road at elevation point 235, section 58, T2S/R3W, Laurelwood map; then

(16) Proceed east 0.1 mile on Albertson Road to its intersection with the 240-foot contour line, section 58, T2S/R3W, Laurelwood map; then

(17) Proceed northerly 15.6 miles along the 240-foot contour line to its intersection with Sandstrom Road, section 19, T1S/R3W, Laurelwood map; then

(18) Proceed west 0.15 mile on Sandstrom Road to its third crossing of the 200-foot contour line, just before Fern Hill Road to the west, section 24, T1S/R4W, Laurelwood map; then

(19) Proceed northwesterly and then northeasterly 4.5 miles along the meandering 200-foot contour line to its intersection with La Follette Road along the eastern boundary of section 8, T1S/R3W, Laurelwood map; then

(20) Proceed south 0.25 mile on La Follette Road to its intersection with the 240-foot contour line, north of Blooming Fern Hill Road, along the western boundary line of section 16, T1S/R3W, Laurelwood map; then

(21) Proceed easterly and then southerly 17 miles along the meandering 240-foot contour line, crossing over and back on the Scholls map in section 25 and 56, T1S/R3W, crossing Christensen Creek in section 35, T1S/R3W, and continuing to the contour line's intersection with Laurel Road West, along the southern boundary line of section 1, T2S/R3W, Laurelwood map; then

(22) Proceed east 0.15 mile on Laurel Road West to its intersection with the 200-foot contour line, along the southern boundary line of section 1, T2S/R3W, Laurelwood map; then

(23) Proceed easterly 17.5 miles along the meandering 200-foot contour line, and, after crossing onto the Scholls map and crossing over Laurel Road South, McCormick Hill Road four times, and Midway Road, and after crossing over and back on the Newberg map (crossing Heaton Creek) in section

28, T2S/R2W, continue to the contour line's intersection with Mountain Home Road, east of Heaton Creek, section 21, T2S/R2W, Scholls map; then

(24) Continue easterly and then southerly 8.9 miles along the 200-foot contour line and, after crossing Baker Creek, skirting Laurel Ridge to the north, crossing onto the Beaverton map, crossing over and back on the Sherwood map, crossing over in the northwest corner of the Beaverton map, and returning to the Scholls map, continue to the contour line's intersection with the middle tributary of an unnamed creek, along the western boundary line of section 24, T2S/R2W, Scholls map; then

(25) Proceed southeast along the meandering 200-foot contour line and, after crossing over to the northeast corner of the Newberg map to the Sherwood map, continue to the contour line's intersection with Edy Road, section 25, T2S/R2W, Sherwood map; then

(26) Proceed southwest along the meandering 200-foot contour line and, after crossing onto the Newberg map, skirting part of Chicken Creek, and returning to the Sherwood map, continue to the contour line's intersection with Elwert Road, along the eastern boundary line of section 25, T2S/R2W, Sherwood map; then

(27) Proceed south 0.85 mile on Elwert Road to its intersection with Oregon Highway 99W, along the eastern boundary line of section 36, T2S/R2W, Sherwood map; then

(28) Proceed south-southwest 0.45 mile on Oregon Highway 99W to its intersection with the 250-foot contour line immediately south of an unnamed Cedar Creek tributary, section 36, T2S/R2W, Sherwood map; then

(29) Proceed southerly 1 mile along the meandering 250-foot contour line to its intersection with Middleton Road, section 1, T3S/R2W, Sherwood map; then

(30) Proceed southwesterly 0.5 mile on Middleton Road, which becomes Rein Road, to the road's intersection with the 200-foot contour line, immediately south of Cedar Creek, section 1, T3S/R2W, Sherwood map; then

(31) Proceed 1.6 miles generally east along the 200-foot contour line to its intersection, in the village of Middleton, with an unnamed light-duty east-west road locally known as Brookman Road, section 6, T3S/R1W, Sherwood map; then

(32) Proceed easterly 0.7 mile on Brookman Road to its intersection with the Washington-Clackamas County line, at the northwest corner of section 5, T3S/R1W, Sherwood map; then

(33) Proceed east 1 mile along the Washington-Clackamas County line to its intersection with Brown Road, at the northeast corner of section 5, T3S/R1W, Sherwood map; then

(34) Proceed southerly 1 mile on Brown Road to its second intersection with the 250-foot contour line, immediately south of an intermittent stream, in section 4, T3S/R1W, Sherwood map; then

(35) Proceed southerly 2.8 miles along the meandering 250-foot contour line, skirting Hoodview, to the contour line's intersection with Baker Road, section 16, T3S/R1W, Sherwood map; then

(36) Proceed south 0.15 mile on Baker Road to its intersection with the 200-foot contour line, section 16, T3S/R1W, Sherwood map; then

(37) Proceed southwesterly 13.1 miles along the meandering 200-foot contour line and, after crossing onto the Newberg map, continue to the contour line's intersection with Wilsonville Road, north of Willamette Greenway State Park, section 60, T3S/R2W, Newberg map; then

(38) Proceed northwesterly 2 miles on Wilsonville Road to its intersection with an unnamed tributary of Spring Brook, east-northeast of Grouse Butte, section 57, T3S/R2W, Newberg map; then

(39) Proceed southwesterly 0.25 mile along the unnamed tributary of Spring Brook to its intersection with the 200-foot contour line, section 57, T3S/R2W, Newberg map; then

(40) Proceed westerly and then northerly 0.45 mile along the 200-foot contour line, following the base of Grouse Butte, to the contour line's intersection with Wilsonville Road, section 57, T3S/R2W, Newberg map; then

(41) Proceed east 0.45 mile on Wilsonville Road to its intersection with the same unnamed tributary of

Spring Brook, section 57, T3S/R2W, Newberg map; then

(42) Proceed northeasterly 0.05 mile along the unnamed tributary of Spring Brook to its intersection with the 250-foot contour line, southwest of the quarries, section 57, T3S/R2W, Newberg map; then

(43) Proceed northerly 2.2 miles along the 250-foot contour line to its intersection with Corral Creek Road (misnamed Ladd Hill Road on the Newberg map), south of Oregon Highway 99W, section 15, T3S/R2W, Newberg map; then

(44) Proceed north 0.5 mile along Corral Creek Road to its western-most intersection with an unnamed light-duty road locally known as Veritas Lane, section 15, T3S/R2W, Newberg map; then

(45) Proceed north-northwesterly in a straight line approximately 0.05 mile and return to the beginning point.

[T.D. TTB–56, 71 FR 68462, Nov. 27, 2006]

### §9.206 Shawnee Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Shawnee Hills''. For purposes of part 4 of this chapter, ''Shawnee Hills'' is a term of viticultural significance.

(b) *Approved maps.* The United States Geological Survey (USGS) 1:250,000-scale topographic map used to determine the boundary of the Shawnee Hills viticultural area is titled—Paducah: Kentucky–Illinois, Missouri–Indiana, 1987 edition.

(c) *Boundary.* The Shawnee Hills viticultural area is located in southern Illinois between the Ohio and Mississippi Rivers, and largely within the Shawnee National Forest. The boundary of the Shawnee Hills viticultural area is described below—

(1) Beginning at the intersection of State Routes 3 and 150 in the town of Chester (Randolph County), proceed northeast on Route 150 to its intersection with the surveyed boundary line between Township 6 South (T6S) and Township 7 South (T7S); then

(2) Proceed due east along the T6S/T7S boundary line until it becomes the boundary between Perry and Jackson Counties, and continue east along the Perry-Jackson County line to State Route 4; then

(3) Proceed southeast on State Route 4 through the villages of Campbell Hill, Ava, and Oraville to its intersection with State Route 13/127; then

(4) Proceed south on State Route 13/127 to the intersection where State Routes 13 and 127 divide in the town of Murphysboro; then

(5) Proceed east on State Route 13 through the city of Carbondale to State Route 13's intersection with Interstate 57; then

(6) Proceed south on Interstate 57 to its intersection with State Route 148; then

(7) Proceed southeast on State Route 148 to its intersection with State Route 37; then

(8) Proceed south on State Highway 37 to Saline Creek; then

(9) Proceed northeasterly (downstream) along Saline Creek to its confluence with the South Fork of the Saline River, then continue easterly (downstream) along the South Fork of the Saline River to its confluence with the Saline River, then continue easterly and then southeasterly (downstream) along the Saline River to its confluence with the Ohio River near Saline Landing; then

(10) Proceed southwesterly (downstream) along the Ohio River to the Interstate 24 bridge; then

(11) Proceed north on Interstate 24 to its intersection with the New Columbia Ditch (with the towns of Big Bay to the northeast and New Columbia to the northwest); then

(12) Proceed westerly along the New Columbia Ditch to its confluence with the Main Ditch, and continue westerly along the Main Ditch to its confluence with the Cache River (near the Cache River's confluence with the Post Creek Cutoff), approximately 1.5 miles east-northeast of the village of Karnak; then

(13) Proceed westerly (downstream) along the Cache River, passing under Interstate 57 near the village of Ullin, and continue southeasterly along the Cache River to the river's confluence with Sandy Creek (northeast of the village of Sandusky); then

(14) Proceed westerly (upstream) along Sandy Creek approximately 4

miles to its junction with an unnamed secondary road (known locally as Alexander County Road 4); then

(15) Proceed south along the unnamed secondary road (Alexander County Road 4) to its junction with State Route 3 at the village of Olive Branch; then

(16) Proceed northwest on State Route 3 to its intersection with the Main Ditch (also known locally as Sexton Creek) at the village of Gale; then

(17) Proceed northerly along Main Ditch and Clear Creek Ditch to a light-duty road (known locally as State Forest Road) near the southwest corner of the Trail of Tears State Forest, approximately 3.75 miles east of the village of Wolf Lake; then

(18) Proceed west on the light-duty road (State Forest Road) to its intersection with State Route 3 just south of Wolf Lake; then

(19) Proceed north on State Route 3 to its junction with the Big Muddy River (near the village of Aldridge), and continue north (upstream) along the Big Muddy River to its confluence with Kincaid Creek near the village of Grimsby; then

(20) Continue northerly along Kincaid Creek to its junction with State Route 149; then

(21) Proceed west on State Route 149 to its junction with State Route 3, and then continue northwest along State Route 3 to the beginning point in the town of Chester.

[T.D. TTB–57, 71 FR 68471, Nov. 27, 2006]

### § 9.207 Outer Coastal Plain.

(a) *Name.* The name of the viticultural area described in this section is ''Outer Coastal Plain''. For purposes of part 4 of this chapter, ''Outer Coastal Plain'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Outer Coastal Plain viticultural area are seven United States Geological Survey topographic maps. They are titled—

(1) Wilmington, Delaware-New Jersey-Pennsylvania-Maryland, 1984, 1:100,000 scale;

(2) Hammonton, New Jersey, 1984, 1:100,000 scale;

(3) Trenton, New Jersey-Pennsylvania-New York, 1986, 1:100,000 scale;

(4) Long Branch, New Jersey, 1954, photorevised 1981, 1:24,000 scale;

(5) Atlantic City, New Jersey, 1984, 1:100,000 scale;

(6) Cape May, New Jersey, 1981, 1:100,000 scale; and

(7) Dover, Delaware-New Jersey-Maryland, 1984, 1:100,000 scale.

(c) *Boundary.* The Outer Coastal Plain viticultural area includes all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties in the State of New Jersey. The boundary of the Outer Coastal Plain viticultural area is as described below.

(1) The beginning point is on the Wilmington map at the confluence of Alloway Creek with the Delaware River (within Mad Horse Creek State Wildlife Management Area) in Salem County;

(2) From the beginning point, proceed northeasterly in a straight line to the village of Hagerville; then

(3) Continue north on an unnamed road locally known as County Road (CR) 658 to its intersection with State Route (SR) 49; then

(4) Proceed northwesterly on SR 49 to its intersection with SR 45 in the center of the town of Salem; then

(5) Proceed northeasterly on SR 45 to its intersection with SR 540 at the village of Pointers; then

(6) Proceed north on SR 540 into the village of Slapes Corner; then

(7) Proceed northeasterly on an unnamed road locally known as CR 646 to its intersection with the New Jersey Turnpike near the village of Auburn; then

(8) Proceed northeasterly on the New Jersey Turnpike for approximately 18 miles to its intersection with SR 47; then

(9) Proceed south on SR 47 for approximately 0.5 mile to its intersection with SR 534 at the village of Gardenville Center; then

(10) Proceed southeasterly through Gardenville Center on SR 534 to its intersection with SR 544; then

(11) Proceed northeasterly on SR 544 to its intersection with SR 73 on the Hammonton map; then

(12) Proceed north-northwesterly on SR 73 to its intersection with SR 70 in Cropwell; then

(13) Proceed east on SR 70 to its intersection with U.S. 206 in Red Lion; then

(14) Proceed north on U.S. 206, onto the Trenton map, to the intersection of U.S. 206 and an unnamed road locally known as CR 537, in the village of Chambers Corner; then

(15) Proceed northeasterly on CR 537, through the village of Jobstown; then

(16) Continue northeasterly on CR 537, through the villages of Smithburg and Freehold, to its intersection with SR 18, east-northeast of Freehold; then

(17) Proceed easterly on SR 18 to its intersection with the Garden State Parkway; then

(18) Proceed north on the Garden State Parkway to its intersection with SR 36 and proceed east along SR 36 onto the Long Branch map; then

(19) Using the Long Branch map, continue east on SR 36 to where it intersects with Joline Avenue; then

(20) Proceed northeasterly on Joline Avenue to the Atlantic Ocean shoreline; then

(21) Follow the Atlantic Ocean shoreline south, encompassing all coastal islands, onto the Trenton, Hammonton, Atlantic City, and Cape May maps, to the city of Cape May; then

(22) Proceed west, then north, along the eastern bank of the Delaware River, onto the Atlantic City, Dover, and Wilmington maps to the beginning point.

[T.D. TTB–58, 72 FR 6167, Feb. 9, 2007]

### §9.208 Snake River Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Snake River Valley''. For purposes of part 4 of this chapter, ''Snake River Valley'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Snake River Valley viticultural area are 14 United States Geological Survey 1:100,000 scale, metric topographic maps. They are titled,

(1) Baker, Oregon-Idaho, 1981;

(2) Brogan, Oregon-Idaho, 1980;

(3) McCall, Idaho-Oregon, 1980, Photoinspected 1990;

(4) Weiser, Idaho-Oregon, 1980, Photoinspected 1990;

(5) Boise, Idaho-Oregon, 1981;

(6) Idaho City, Idaho, 1982;

(7) Murphy, Idaho, 1986;

(8) Mountain Home, Idaho, 1990;

(9) Fairfield, Idaho, 1978;

(10) Twin Falls, Idaho, 1979;

(11) Glenns Ferry, Idaho, 1992;

(12) Triangle, Idaho, 1990;

(13) Mahogany Mountain, Idaho, 1978; and

(14) Vale, Oregon-Idaho, 1993.

(c) *Boundary.* The Snake River Valley viticultural area is located in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Payette, Twin Falls, and Washington Counties in southwestern Idaho and in Baker and Malheur Counties in southeastern Oregon. The boundary of the Snake River Valley viticultural area is as described below:

(1) The beginning point is on the Baker map in Oregon at the intersection of the 1,040-meter contour line and Interstate 84, between Pleasant Valley and Oxman in Baker County, T10S/R42E;

(2) From the beginning point proceed east following the 1,040-meter contour line along the eastern side of the Burnt River Valley, then crossing over to the Brogan map, proceed northerly along the western side of the Snake River Valley and, crossing back over to the Baker map, proceed westerly along the southern side of the Powder River Valley to the 1,040-meter contour line's intersection with the northern boundary of Baker County, T7S/R40E, on the Baker map;

(3) Proceed 7.5 miles straight east along the northern boundary of Baker County to its intersection with the 1,040-meter line east of Oregon State Road 203 and three unnamed creeks, T7S/R41E, on the Baker map;

(4) Proceed generally southeast along the 1,040-meter contour line onto the McCall map, to its intersection with the 45 degree north latitude line, to the immediate west of North Creek in the Hell's Canyon National Recreation Area, T6S/R47E, on the northern border of the McCall map;

(5) Proceed straight east along the 45 degree north latitude line to its intersection with the 1,040-meter contour

line, to the immediate east of North Creek, T6S/R47E, on the McCall map;

(6) Follow the 1,040-meter contour line, which encircles the northern portion of McLain Gulch, to its third intersection with the 45 degree north latitude line, west of the Snake River in Baker County, Oregon, T6S/R48E, on the McCall map;

(7) Proceed straight east along the 45 degree north latitude line to its intersection with the 1,040-meter contour line, to east of the Snake River and Indian Creek in Adams County, Idaho, T6S/R48W, on the McCall map;

(8) Continue following the 1,040-meter contour line in a generally clockwise rotation on the McCall map, proceeding southerly on the southeast side of the Snake River, northeasterly north of the Crooked River, crossing the Crooked River, T7S/R3W, proceeding southwesterly south of the Crooked River, crossing Brownlee Creek, T16N/R4W, proceeding generally southwesterly onto the Baker map, continuing southwesterly, crossing Sturgill Creek, T15N/R6W, and Dennett Creek, T14N/R6W, proceeding onto the Brogan map, proceeding southeasterly, crossing Rock Creek, T13N/R6W, proceeding onto the Weiser map, proceeding northeasterly, north of the Mann Creek State Recreation Area, crossing Mann Creek, T13N/R5W, continuing northeasterly onto the McCall map;

(9) Continue following the 1,040-meter contour line in a clockwise rotation on the McCall map, proceeding northeasterly, crossing Pine Creek, T15N/R4W, and Hornet Creek, T8S/R2W, passing west of the Payette National Forest, proceeding southerly, passing east of Mesa, onto the Weiser map, proceeding southerly, crossing Crane Creek, T12N/R1W, turning westerly, rounding north of the Paddock Valley Reservoir, crossing Willow Creek, T9N/R1W, turning southerly onto the Boise map, looping southerly and northerly north of the Black Canyon Reservoir and moving back onto the Weiser map;

(10) Continue following the 1,040-meter contour line in a clockwise rotation on the Weiser map, proceeding northerly, crossing Squaw Creek, T12N/R1E, and then southerly, crossing Cottonweed Creek, T11N/R1E, and then southerly again onto the Boise map, rounding south of South Mountain, back onto the Weiser map, proceeding northeasterly north of the Payette River, crossing the North Fork Payette River, T10N/R3E, then proceeding southwesterly south of the Payette River, onto the Boise map, proceeding generally southerly, crossing Cartwright Creek, T6N/R2E, and proceeding westerly and southeasterly towards Lucky Peak Lake, and then turning northward onto the Idaho City map;

(11) Continue following the 1,040-meter contour line in a clockwise rotation on the Idaho City map, proceeding northerly, crossing Grimes and Mores Creek, T5N/R4E, and then proceeding southerly to Lucky Peak Lake, turning northeasterly north of the Lucky Peak Lake, Arrowrock Reservoir, and Middle Fork Boise River to T4N/R7E, crossing the Middle Fork Boise River and proceeding southwesterly south of the Middle Fork Boise River, to the South Fork Boise River, crossing the South Fork Boise River, T2N/R6E, proceeding onto the Boise map proceeding southwesterly south of Lucky Peak Lake onto the Murphy map;

(12) Continue following the 1,040-meter contour line in a clockwise rotation southeasterly on the Murphy map to the Mountain Home map, proceeding southeasterly, crossing Canyon Creek, passing north of Mountain Home Reservoir, crossing King Hill Creek, onto the Fairfield map, proceeding easterly, crossing Clover Creek, T4S/R13E, proceeding southerly onto the Twin Falls map;

(13) Continue following the 1,040-meter contour line in a clockwise rotation on the Twin Falls map, proceeding southeasterly to the Snake River, T9S/R14E, following north of the Snake River and crossing at T10S/R18E, northeast of Twin Falls, proceeding westerly south of the Snake River to the Salmon River, following east of the Salmon River and crossing at T10S/R13E, proceeding northerly west of the Salmon River and the Hagerman Wildlife Management Area, proceeding west onto the Glenns Ferry map;

(14) Continue following the 1,040-meter contour line in a clockwise rotation on the Glenns Ferry map, proceeding generally west to Rosevear

Gulch, turning south between Rosevear Gulch and Pilgrim Gulch, near Deadman Creek, heading northwesterly, continuing through the Bruneau Desert, crossing Hole Creek in Pot Canyon and proceeding to Bruneau Canyon, proceeding southeasterly east of Bruneau Canyon, crossing Bruneau Canyon, T10S/R7E, proceeding west of Bruneau Canyon then west onto the Triangle map;

(15) Continue following the 1,040-meter contour line in a clockwise rotation on the Triangle map, heading northwesterly, crossing Shoofly Creek and Alder Creek, T6S/R1W, onto the Murphy map, continuing northwesterly to Sinker Creek, crossing Sinker Creek, T4S/R2W, continuing northwesterly to Jump Creek, crossing Jump Creek, T1N/R5W, proceeding northwesterly onto the Boise map, crossing its southwestern corner, T2N/R5W, onto the Mahogany Mountain map;

(16) Continue following the 1,040-meter contour line in a clockwise rotation onto the Mahogany Mountain map, proceeding westerly onto the Vale map, generally northwesterly then southwesterly onto the Mahogany Mountain map, proceeding southwest, west, and generally north onto the Vale map, passing through Succor Creek State Recreational Area, returning to the Mahogany Mountain map, and, passing east of McIntyre Ridge, crossing Succor Creek, T1N/R46E, proceeding northerly back onto the Vale map;

(17) Continue following the 1,040-meter contour line in a clockwise rotation on the Vale map, proceeding northerly east of Owyhee Ridge and Long Draw to north of Lake Owyhee, southwesterly and southerly south of Lake Owyhee onto the Mahogany Mountain map, southwesterly south of Lake Owyhee, the Owyhee River, and Owyhee Canyon, crossing Owyhee Canyon at T29S/R41E, proceeding northerly west of Owyhee Canyon, northeasterly west of Owyhee River and Owyhee Reservoir, and northerly onto the Vale map;

(18) Continue following the 1,040-meter contour line in a clockwise rotation on the Vale map, proceeding generally northerly to T20S/R42E, southwesterly east of Cottonwood Creek, crossing Cottonwood Creek, T22S/R40E, proceeding north to the Malheur River, following the Malheur River westerly to the intersection of the 1,040-meter contour line and the 118 degree west longitude line in Malheur County, Oregon, T21S/R38E, on the western border of the Vale map;

(19) Proceed straight north along the 118 degree west longitude line to its intersection with the 1,040-meter contour line, north of the Malheur River, T20S/R38E, proceeding easterly north of the Malheur River to Hog Creek, crossing Hog Creek, T20S/R40E, and proceeding northerly on the Vale map;

(20) Continue following the 1,040-meter contour line in a clockwise rotation, crossing onto the Brogan map, proceeding easterly, northerly, and westerly to and around Malheur Reservoir, T14S/R41E, proceeding easterly to Cottonwood Gulch then northerly to Dixie Creek, crossing Dixie Creek, T12S/RR41E, proceeding easterly and northerly onto the Baker map;

(21) Continue following the 1,040-meter contour line in a clockwise rotation on the Baker map, proceeding westerly south of the Burnt River, crossing the Burnt River, T10S/R41E, proceeding easterly north of the Burnt River to Gravel Pits, then northerly, returning to the beginning point.

[T.D. TTB–59, 72 FR 10602, Mar. 9, 2007]

## §9.210 Lehigh Valley.

EFFECTIVE DATE NOTE: At 73 FR 12874, Mar. 11, 2008, Subpart C was amended by adding 9.210, effective April 10, 2008.

(a) *Name.* The name of the viticultural area described in this section is ''Lehigh Valley''. For purposes of part 4 of this chapter, ''Lehigh Valley'' and ''Lehigh'' are terms of viticultural significance.

(b) *Approved maps.* The seven United Stages Geological Survey 1:50,000 scale topographic maps used to determine the boundary of the Lehigh Valley viticultural area are titled:

(1) Berks County, Pennsylvania, 1978;

(2) Schuylkill County (West Half), Pennsylvania, 1979;

(3) Schuylkill County (East Half), Pennsylvania, 1979;

(4) Carbon County, Pennsylvania, 1991;

(5) Monroe County, Pennsylvania, 1980;

(6) Northampton County, Pennsylvania, 1981; and

(7) Lehigh County, Pennsylvania, 1987.

(c) *Boundary*. The Lehigh Valley viticultural area is located in portions of Lehigh, Northampton, Berks, Schuylkill, Carbon, and Monroe Counties, Pennsylvania. The boundary of the proposed Lehigh Valley viticultural area is as described below:

(1) The beginning point is on the Berks County map at the intersection of the Berks-Lancaster County line and the single-track Conrail rail line located near Cacoosing Creek in South Heidelberg Township;

(2) From the beginning point, proceed northwest along the Berks County line and, crossing onto the Schuylkill County (West Half) map, continue northwest along the Schuylkill-Lebanon County line to the county line's intersection with the northern boundary of Pine Grove township; then

(3) Proceed northeast along the northern boundary of Pine Grove, Washington, and Wayne Townships and, crossing onto the Schuylkill County (East Half) map, continue along the northern boundary of Wayne Township to the northeast corner of that township, then

(4) Proceed east-northeasterly in a straight line to the confluence of Beaver Creek and Cold Run at the northeast corner of State Game Lands No. 222 in Walker township; then

(5) Proceed north-northeasterly in a straight line to the 1,402-foot elevation point on Wildcat Mountain in Walker township; then

(6) Proceed easterly in a straight line, crossing onto the Carbon County map, and continue to Bench Mark (BM) 1032 located on Highway 902, south of the village of Bloomingdale; then

(7) Proceed east-northeasterly in a straight line to BM 555 located immediately east of the Lehigh River in the city of Jim Thorpe; then

(8) Proceed east-northeasterly in a straight line to the northern most point of Lehighton Reservoir; then

(9) Proceed east-northeasterly in a straight line to the western end of the dam at the Penn Forest Reservoir; then

(10) Proceed easterly in a straight line and, crossing onto the Monroe County map, continue to the 847-foot elevation point located at the intersection of Highway 534 and an unnamed road locally know as Dotters Corner Road in Polk township; then

(11) Proceed east-northeasterly in a straight line to the intersection of Highway 115 and an unnamed secondary road locally known as Astolat Road immediately north of the village of Effort; then

(12) Proceed east-northeasterly in a straight line to St. Johns Cemetery, located along Appenzell Creek northwest of the village of Neola; then

(13) Proceed straight northeast to the intersection of Interstate 80 and an unnamed road locally known as Hamilton Turnpike at the town of Bartonsville; then

(14) Proceed east-southeast along Interstate 80 through Stroudsburg to the west bank of the Delaware River; then

(15) Proceed south (downstream) along the west bank of the Delaware River, and, crossing onto the Northampton County map, continue south along the west bank of the Delaware River to the mouth of Lehigh River at Easton; then

(16) Proceed southwesterly (upstream) along the south bank of the Lehigh River, and crossing onto the Lehigh County map, continue along the south bank of the Lehigh River to the mouth of Jordan Creek in Allentown; then

(17) Proceed westerly (upstream) along Jordan Creek to the first railroad bridge over the creek, and then, following the Conrail rail line on that bridge, proceed southerly along the Conrail rail line (paralleling Trout Creek at first) through Emmaus, Macungie, and Alburtis, and continue along the rail line to the Lehigh-Berks County line; then

(18) Crossing onto the Berks County map, continue southerly along the Conrail rail line through Mertztown, Topton, Lyons, Fleetwood, Blandon, and Muhlenburg to the Conrail rail bridge across the Schuylkill River in Reading; then

(19) Following the Conrail rail line on the Schuylkill River bridge, proceed southerly along the rail line through Wyomissing to the rail line's junction with a single-track Conrail rail line in Sinking Springs; then

(20) From the Conrail rail line junction in Sinking Springs, follow the single track Conrail rail line through Montello, Fritztown, and Vinemont, and return to the beginning point.

[73 FR 12874, Mar. 11, 2008]

# PART 10—COMMERCIAL BRIBERY

## Subpart A—Scope of Regulations

Sec.
10.1 General.
10.2 Territorial extent.
10.3 Application.
10.4 Jurisdictional limits.
10.5 Delegations of the Administrator.
10.6 Administrative provisions.

## Subpart B—Definitions

10.11 Meaning of terms.

## Subpart C—Commercial Bribery

10.21 Commercial bribery.
10.22 Employee associations.
10.23 Gifts or payments to wholesalers.
10.24 Sales promotion contests.

## Subpart D—Exclusion

10.51 Exclusion, in general.
10.52 Practice which puts trade buyer independence at risk.
10.53 Practices not resulting in exclusion. [Reserved]
10.54 Criteria for determining trade buyer independence.

AUTHORITY: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

SOURCE: T.D. ATF–74, 45 FR 63257, Sept. 30, 1980, unless otherwise noted.

## Subpart A—Scope of Regulations

### § 10.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices which may result in violations of section 105(c) of the Act and criteria for determining whether a practice is a violation of section 105(c) of the Act. This part does not attempt to enumerate all of the practices prohibited by section 105(c) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

[T.D. ATF–364, 60 FR 20426, Apr. 26, 1995]

### § 10.2 Territorial extent.

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

### § 10.3 Application.

(a) *General.* The regulations in this part apply to transactions between industry members and employees, officers, or representatives of trade buyers.

(b) *Transactions involving State agencies.* The regulations in this part apply only to transactions between industry members and employees of State agencies operating as retailers, wholesalers, or both. The regulations do not apply to State agencies with regard to their dealings with employees, officers, or representatives of trade buyers.

### § 10.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member induces a trade buyer to purchase distilled spirits, wine, or malt beverages from such industry member to the exclusion, in whole or in part, of products sold or offered for sale by other persons in interstate or foreign commerce; and

(2) If: (i) The inducement is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in the practice of using an inducement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between an employee, officer, or representative of a trade buyer in any State and a brewer, importer, or wholesaler of malt beverages inside or

outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(c) of the Federal Alcohol Administration Act (27 U.S.C. 205(c)), with respect to similar transactions between an employee, officer, or representative of a trade buyer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

[T.D. ATF–74, 45 FR 63257, Sept. 30, 1980, as amended by T.D. ATF–364, 60 FR 20426, Apr. 26, 1995]

### § 10.5 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.10, Delegation of the Administrator's Authorities in 27 CFR Part 10, Commercial Bribery. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16923, Apr. 4, 2006]

### § 10.6 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Administrator under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Administrator under this Act. The Act also provides that the Administrator is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and subpoena.* Any appropriate TTB officer shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. An appropriate TTB officer shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the appropriate TTB officer*—(1) *General.* The appropriate TTB officer may, as part of a trade practice investigation of an industry member, require such industry member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the appropriate TTB officer. The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0392)

[T.D. ATF–364, 60 FR 20426, Apr. 26, 1995. Redesignated and amended by T.D. ATF–428, 65 FR 52020, Aug. 28, 2000]

## Subpart B—Definitions

### § 10.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement

of this part by TTB Order 1135.10, Delegation of the Administrator's Authorities in 27 CFR Part 10, Commercial Bribery.

*Industry member.* Any person engaged in business as a distiller, brewer, recitifier, blender, or other producer, or as an importer or wholesaler of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits; industry member does not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

*Officer.* All corporate executives, including presidents, vice presidents, treasurers, and chief executive officers.

*Product.* Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

*Trade buyer.* Any person who is a wholesaler or retailer of distilled spirits, wine, or malt beverages.

[T.D. ATF–74, 45 FR 63257, Sept. 30, 1980, as amended by T.D. ATF–364, 60 FR 20426, Apr. 26, 1995; T.D. ATF–428, 65 FR 52020, Aug. 28, 2000; T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

## Subpart C—Commercial Bribery

### § 10.21 Commercial bribery.

It is unlawful for an industry member, directly or indirectly or through an affiliate, to induce a trade buyer to purchase the industry member's products, to the complete or partial exclusion of products sold or offered for sale by other persons in interstate or foreign commerce, by offering or giving a bonus, premium, compensation, or other thing of value to any officer, employee, or representative of the trade buyer. The bonus, premium, compensation, or other thing of value need not be offered or given for the purpose of directly inducing a trade buyer to purchase from the seller, but rather is applicable if an industry member induces officers, employees or representatives of the trade buyer to promote sales of the industry member's products and thereby indirectly induces the trade buyer to purchase from the industry member.

### § 10.22 Employee associations.

Gifts, donations, and other payments such as for advertising in publications, by an industry member, to trade buyer employee associations are considered the same as bonuses, premiums, compensation, or other things of value given directly to the employees, since the benefits resulting from the gifts or payments flow to the individual members of the association.

### § 10.23 Gifts or payments to wholesalers.

Although industry members are not prohibited from offering or giving money or other things of value to a wholesale entity (i.e., the corporation, partnership, or individual who owns the business), the wholesaler will be considered as acting as a mere conduit between its officers, employees, or representatives and the industry member, if:

(a) There is an agreement or understanding, implied or explicit, that the money or thing of value will be passed on to the officers, employees, or representatives, or

(b) It is obvious by the very nature of the item given (such as a free trip) that a pass through to the officers, employees, or representatives is clearly contemplated, or

(c) The records of the recipient wholesaler do not accurately reflect such money or item as an asset or the wholesale entity, thus being subject to all ensuing tax consequences as distinguished from the receipt of the money or item as a personal asset of an officer, employee, or representative.

### § 10.24 Sales promotion contests.

Sales contests sponsored by an industry member which offer prizes directly or indirectly to trade buyer officers, employees or representatives are inducements within the meaning of the Act.

## Subpart D—Exclusion

SOURCE: T.D. ATF–364, 60 FR 20427, Apr. 26, 1995, unless otherwise noted.

### § 10.51 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the

potential to place) trade buyer independence at risk by means of a tie or link between the industry member and trade buyer or by any other means of industry member control over the trade buyer, and

(2) Such practice results in the trade buyer purchasing less than it would have of a competitor's product.

(b) Section 10.52 lists practices that create a tie or link that places trade buyer independence at risk. Section 10.53 is reserved and will list practices not resulting in exclusion. Section 10.54 lists the criteria used for determining whether other practices can put trade buyer independence at risk.

### § 10.52 Practice which puts trade buyer independence at risk.

The practice specified in this section is deemed to place trade buyer independence at risk within the description of exclusion in § 10.51: Industry member payments of money to the employee(s) of a trade buyer without the knowledge or consent of the trade buyer-employer in return for the employee agreeing to order distilled spirits, wine, or malt beverages from the industry member. The practice enumerated here is an example and does not constitute a complete list of those situations which result in such control.

### § 10.53 Practices not resulting in exclusion. [Reserved]

### § 10.54 Criteria for determining trade buyer independence.

The criteria specified in this section are indications that a particular practice between an industry member and an officer, employee, or representative of a trade buyer, other than those in § 10.52, places trade buyer independence at risk. A practice need not meet all of the criteria specified in this section in order to place trade buyer independence at risk.

(a) The practice restricts or hampers the free economic choice of a trade buyer to decide which products to purchase or the quantity in which to purchase them for sale to retailers and consumers.

(b) The industry member obligates the trade buyer to participate in the promotion to obtain the industry member's product.

(c) The trade buyer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The trade buyer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the trade buyer. For example, the industry member controls the trade buyer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the trade buyer's premises.

(f) The practice is discriminatory in that it is not offered to all trade buyers in the local market on the same terms without business reasons present to justify the difference in treatment.

## PART 11—CONSIGNMENT SALES

### Subpart A—Scope of Regulations

Sec.
11.1 General.
11.2 Territorial extent.
11.3 Application.
11.4 Jurisdictional limits.
11.5 Delegations of the Administrator.
11.6 Administrative provisions.

### Subpart B—Definitions

11.11 Meaning of terms.

### Subpart C—Unlawful Sales Arrangements

11.21 General.
11.22 Consignment sales.
11.23 Sales conditioned on the acquisition of other products.
11.24 Other than a bona fide sale.

### Subpart D—Rules for the Return of Distilled Spirits, Wine, and Malt Beverages

11.31 General.

EXCHANGES AND RETURNS FOR ORDINARY AND USUAL COMMERCIAL REASONS

11.32 Defective products.
11.33 Error in products delivered.
11.34 Products which may no longer be lawfully sold.
11.35 Termination of business.
11.36 Termination of franchise.
11.37 Change in product.
11.38 Discontinued products.
11.39 Seasonal dealers.

EXCHANGES AND RETURNS FOR REASONS NOT CONSIDERED ORDINARY AND USUAL

11.45 Overstocked and slow-moving products.
11.46 Seasonal products.

AUTHORITY: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205.

SOURCE: T.D. ATF–74, 45 FR 63258, Sept. 23, 1980, unless otherwise noted.

## Subpart A—Scope of Regulations

### § 11.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify arrangements which are consignment sales under section 105(d) of the Act and contain guidelines concerning return of distilled spirits, wine and malt beverages from a trade buyer. This part does not attempt to enumerate all of the practices prohibited by section 105(d) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

[T.D. ATF–364, 60 FR 20427, Apr. 26, 1995]

### § 11.2 Territorial extent.

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

### § 11.3 Application.

(a) *General.* The regulations in this part apply to transactions between industry members and trade buyers.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions involving State agencies operating as retailers or wholesalers.

### § 11.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member sells, offers for sale, or contracts to sell to a trade buyer engaged in the sale of distilled spirits, wines, or malt beverages, or for any such trade buyer to purchase, offer to purchase, or contract to purchase, any such products on consignment or under conditional sale or with the privilege of return or on any basis other than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person from the trade buyer or the agreement to acquire from the trade buyer other distilled spirits, wine, or malt beverages; and,

(2) If: (i) The sale, purchase, offer or contract is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in using the practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the sale, purchase, offer or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(d) of the Federal Alcohol Administration Act (27 U.S.C. 205(d)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

### § 11.5 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.11, Delegation of the Administrator's Authorities in 27 CFR Part 11, Consignment Sales. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

### § 11.6 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Administrator under this Act, and to any person (whether or

not a corporation) subject to the provisions of law administered by the Administrator under this Act.

(b) *Examination and subpoena.* Any appropriate TTB officer shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. An appropriate TTB officer shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

[T.D. ATF–364, 60 FR 20427, Apr. 26, 1995. Redesignated and amended by T.D. ATF–428, 65 FR 52021, Aug. 28, 2000]

## Subpart B—Definitions

### § 11.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.11, Delegation of the Administrator's Authorities in 27 CFR Part 11, Consignment Sales.

*Exchange.* The transfer of distilled spirits, wine, or malt beverages from a trade buyer to an industry member with other products taken as a replacement.

*Industry member.* Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler of distilled spirits, wine or malt beverages, or as a bottler or warehouseman and bottler, of distilled spirits.

*Product.* Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

*Retailer.* Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. A wholesaler who makes incidental retail sales representing less than five percent of the wholesaler's total sales volume for the preceding two-month period shall not be considered a retailer with respect to such incidental sales.

*Return.* The transfer of distilled spirits, wine, or malt beverages from a trade buyer to the industry member from whom purchased, for cash or credit.

*Trade buyer.* Any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

[T.D. ATF–74, 45 FR 63258, Sept. 23, 1980, as amended by T.D. ATF–364, 60 FR 20427, Apr. 26, 1995; T.D. ATF–428, 65 FR 52021, Aug. 28, 2000; T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

## Subpart C—Unlawful Sales Arrangements

### § 11.21 General.

It is unlawful for an industry member to sell, offer for sale, or contract to sell to any trade buyer, or for any such trade buyer to purchase, offer to purchase, or contract to purchase any products (a) on consignment; or (b) under conditional sale; or (c) with the privilege of return; or (d) on any basis other than a bona fide sale; or (e) if any part of the sale involves, directly or indirectly, the acquisition by such person of other products from the trade buyer or the agreement to acquire other products from the trade buyer. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product has been sold are not prohibited.

### § 11.22 Consignment sales.

Consignment sales are arrangements wherein the trade buyer is under no obligation to pay for distilled spirits, wine, or malt beverages until they are sold by the trade buyer.

### § 11.23 Sales conditioned on the acquisition of other products.

(a) *General.* A sale in which any part of the sale involves, directly or indirectly, the acquisition by the industry member from the trade buyer, or the agreement, as a condition to present or future sales, to accept other products from the trade buyer is prohibited.

(b) *Exchange.* The exchange of one product for another is prohibited as a sales transaction conditioned on the acquisition of other products. However, the exchange of a product for equal quantities (case for case) of the same type and brand of product, in containers of another size is not considered an acquisition of ''other'' products and is not prohibited if there was no direct or implied privilege of return extended when the product was originally sold. Industry members may make price adjustments on products eligible for exchange under this paragraph.

### § 11.24 Other than a bona fide sale.

''Other than a bona fide sale'' includes, but is not limited to, sales in connection with which the industry member purchases or rents the display, shelf, storage or warehouse space to be occupied by such products at premises owned or controlled by the retailer.

[T.D. ATF–364, 60 FR 20427, Apr. 26, 1995]

## Subpart D—Rules for the Return of Distilled Spirits, Wine, and Malt Beverages

### § 11.31 General.

(a) Section 5(d) of the Act provides, in part, that it is unlawful to sell, offer to sell, or contract to sell products with the privilege of return for any reason, other than those considered to be ''ordinary and usual commercial reasons'' arising after the product has been sold. Sections 11.32 through 11.39 specify what are considered ''ordinary and usual commercial reasons'' for the return of products, and outline the conditions and limitations for such returns.

(b) An industry member is under no obligation to accept the return of products for the reasons listed in §§ 11.32 through 11.39.

EXCHANGES AND RETURNS FOR ORDINARY AND USUAL COMMERCIAL REASONS

### § 11.32 Defective products.

Products which are unmarketable because of product deterioration, leaking containers, damaged labels or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

[T.D. ATF–364, 60 FR 20427, Apr. 26, 1995]

### § 11.33 Error in products delivered.

Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness.

### § 11.34 Products which may no longer be lawfully sold.

Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

[T.D. ATF–364, 60 FR 20428, Apr. 26, 1995]

### § 11.35 Termination of business.

Products on hand at the time a trade buyer terminates operations may be returned for cash or credit against outstanding indebtedness. This does not include a temporary seasonal shutdown (see § 11.39).

[T.D. ATF–364, 60 FR 20428, Apr. 26, 1995]

### § 11.36 Termination of franchise.

When an industry member has sold products for cash or credit to one of its wholesalers and the distributorship arrangement is subsequently terminated, stocks of the product on hand may be returned for cash or credit against outstanding indebtedness.

### § 11.37 Change in product.

A trade buyer's inventory of a product which has been changed in formula, proof, label or container (subject to § 11.46) may be exchanged for equal quantities of the new version of that product.

### § 11.38 Discontinued products.

When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

### § 11.39 Seasonal dealers.

Industry members may accept the return of products from retail dealers who are only open a portion of the year, if the products are likely to spoil during the off season. These returns will be for cash or for credit against outstanding indebtedness.

EXCHANGES AND RETURNS FOR REASONS NOT CONSIDERED ORDINARY AND USUAL

### § 11.45 Overstocked and slow-moving products.

The return or exchange of a product because it is overstocked or slow-moving does not constitute a return for ''ordinary and usual commercial reasons.''

### § 11.46 Seasonal products.

The return or exchange of products for which there is only a limited or seasonal demand, such as holiday decanters and certain distinctive bottles, does not constitute a return for ''ordinary and usual commercial reasons.''

# PART 12—FOREIGN NONGENERIC NAMES OF GEOGRAPHIC SIGNIFICANCE USED IN THE DESIGNATION OF WINES

## Subpart A—General Provisions

Sec.
12.1 Scope.
12.2 Territorial extent.
12.3 Procedure for recognition of foreign distinctive designations.

## Subpart B [Reserved]

## Subpart C—Foreign Nongeneric Names of Geographic Significance

12.21 List of examples of names by country.

## Subpart D—Foreign Nongeneric Names Which Are Distinctive Designations of Specific Grape Wines

12.31 List of approved names by country.

AUTHORITY: 27 U.S.C. 205.

SOURCE: T.D. ATF–296, 55 FR 17967, Apr. 30, 1990, unless otherwise noted.

## Subpart A—General Provisions

### § 12.1 Scope.

The regulations in this part relate to foreign names of geographic significance used in the designation of wines which are recognized as nongeneric under 27 CFR 4.24, and include those nongeneric names which the Administrator has found to be distinctive designations of wine, as defined in § 4.24(c)(1) of this chapter.

### § 12.2 Territorial extent.

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

### § 12.3 Procedure for recognition of foreign distinctive designations.

(a) *Procedure.* Under the provisions of 27 CFR 70.701(c), the Administrator may approve petitions requesting TTB recognition of names of geographic significance which are the distinctive designations of specific wines under § 4.24(c) of this chapter.

(b) *Format.* A petition shall be in the form of a letterhead application requesting that TTB recognize the distinctive wine designation listed in their petition. The petition should present evidence to support a finding that the geographic designation is known to the U.S. consumer and trade as the designation of a specific wine of a particular place or region, distinguishable from all other wines. All background material and supporting data submitted will be made part of the application and will be considered in the review process.

[T.D. ATF–296, 55 FR 17967, Apr. 30, 1990, as amended by T.D. ATF–463, 66 FR 42733, Aug. 15, 2001]

## Subpart B [Reserved]

## Subpart C—Foreign Nongeneric Names of Geographic Significance

### § 12.21 List of examples of names by country.

The names listed in this section are examples of foreign nongeneric names of geographic significance under § 4.24(c) (1) and (2) of this chapter.

(a) *Argentina:* Alto Colorado, Valles Calchaquies.

(b) *Australia:* Adelaide, Barossa Valley, Clare Valley, Cowra, Forbes, Geelong, Goulburn Valley, Granite Belt, Great Western, Hunter Valley, McLaren Vale, Mudgee, Murray River Valley, New South Wales, North Richmond, Queensland, South Australia, Swan Valley, Tasmania, Victoria, Western Australia, Yarra Valley.

(c) *Austria:* Bisamberg-Kreuzenstein, Burgenland, Carnuntum, Frauenweingarten, Kapellenweg, Kirchberger Wagram, Matzner Hugel, Niederosterreich, Nussberg, Pinkatal, Schatzberg, Sekt, Wachau, Weststeiermark, Wien.

(d) *Federal Republic of Germany:* Ahr, Bacharach, Bad Durkheim, Baden, Badisches Frankenland, Badstube, Bayerischer Bodensee, Bernkastel, Bingen, Breisgau, Deidesheimer Hofstuck, Dhroner Hofberger, Erdener Treppchen, Graach, Graben, Hessische Bergstrasse, Himmelreich, Hochheimer Holle, Johannisberg, Klosterberg, Kocher-Jagst-Tauber, Kreuznach, Kurfurstlay, Loreley, Maindreieck, Mainviereck, Markgraflerland, Mittelrhein, Moseltor, Nahe, Nierstein, Obermosel, Oppenheimer Krotenbrunnen, Ortenau, Remstal-Stuttgart, Rhein-Burgengau, Rheinfalz, Rheingau, Rheinhessen, Schloss Bockelheim, Sekt, Siebengebirge, Starkenburg, Steigerwald, Sudliche Weinstrasse, Trier, Umstadt, Urziger Wurzgarten, Walporzheim/Ahrtal, Wiltinger Scharzberg, Winkeler Jesuitengarten, Wonnegau, Wurttemberg, Zell/Mosel.

(e) *France:* Ajaccio, Arbois, Auxey-Duresses, Bandol, Bearn, Bellet, Bergerac, Blagny, Blaye, Bonnezeaux, Bourg, Buzet, Cadillac, Cahors, Canon-Fronsac, Cassis, Cerons, Charlemagne, Chateau Chalon, Chateau-Grillet, Chinon, Chorey-les-Beaunes, Clos de Tart, Clos des Lambrays, Clos Saint-Denis, Collioure, Condrieu, Cornas, Coteaux de l'Aubance, Coteaux du Languedoc, Coteaux du Loir, Coteaux du Lyonnais, Coteaux du Tricastin, Cotes de Duras, Cotes de Provence, Cotes du Jura, Cotes du Roussillon, Cotes du Ventoux, Crepy, Dezize-les-Maranges, Faugeres, Fitou, Fixin, Gaillac, Gigondas, Givry, Gros Plant, Irouleguy, Jasnieres, Jurancon, Ladoix, L'Etoile, Limoux, Lirac, Loupiac, Madiran, Mazis-Chambertin, Menetou Salon, Minervois, Monbazillac, Montagny, Monthelie, Montlouis, Montravel, Moulis, Muscat de Beaumes de Venise, Muscat de Frontignan, Neac, Pacherenc du Vic Bilh, Palette, Pecharmant, Pernand-Vergelesses, Picpoul-de-Pinet, Pineau des Charentes, Pouilly-Loche, Quarts-de-Chaume, Quincy, Regnie, Reuilly, Rosette, Rully, Saint-Aubin, Saint-Chinian, Saint-Georges-d'Orques, Saint-Joseph, Saint-Nicolas-de-Bourgueil, Saint-Peray, Saint-Romain, Saint-Veran, Sainte-Croix-du-Mont, Saussignac, Sauvignon de Saint-Bris, Savennieres, Seyssel, Vin de Lavilledieu, Vin de pays de l'Aude, Vin de Savoie, Vin du Bugey, Vin du Haut-Poitou.

(f) *Greece:* Aghialos, Amynteon, Archanes, Daphnes, Goumenissa, Kantza, Mantinea, Mavrodaphni Cefalonia, Mavrodaphni Patras, Moschatos Lemnos, Moschatos Rhodes, Naoussa, Nemea, Paros, Peza, Plagies Melitona, Rapsani, Retsina Attica, Retsina Megaron, Samos, Santorini, Sitia, Sitsa.

(g) *Italy:* Abruzzo, Acqui, Affile, Aleatico di Gradoli, Alto Mincio, Avellino, Barbera del Monferrato, Basilicata, Bianco di Custoza, Bianco Pisano di S. Torpe, Boca, Campidano di Terralba, Castelli di Jesi, Chieri, Cinque Terre, Ciro, Colli Albani, Colli del Trasimeno, Diano d'Alba, Est! Est! Est! di Montefiascone, Etna, Fara, Faro, Franciacorta, Gabiano, Gavi, Ghemme, Ischia, Lambrusco Reggiano, Lamezia, Langhe Monregalesi, Lessona, Lipari, Melissa, Metauro, Molise, Olevano Romano, Oristano, Ovada, Parrina, Piceno, Piemonte, Piglio, Pollino, Puglia, Romagna,

Rosso Barletta, Savuto, Sicilia, Sorbara, Sulcis, Taurasi, Torgiano, Trani, Valtellina Sassella, Velletri, Veneto, Vermentino di Gallura, Vesuvio, Vulture, Zagarolo.

(h) *New Zealand:* Blenheim, Canterbury, Central Otago, Gisborne, Hawkes Bay, Henderson, Marlborough, Nelson, Northland, Richmond, Rodney, South Auckland, Te Kauwhata, Wanganui, Wellington.

(i) *Portugal:* Algarve, Alijo, Bairrada, Baixo Corgo, Basto, Beiras, Belem, Braga, Bucelas, Camara de Lobos, Campanario, Cantahede, Carcavelos, Cartaxo, Chamusca, Colares, Douro, Estremadura, Favaios, Lafoes, Lagoa, Lagos, Lamego, Lousada, Meda, Mesao Frio, Moncao, Moscatel de Setubal, Murca, Nelas, Penafiel, Pico, Portimao, Preces, Ribatejo-Oeste, Sabrosa, Santa Luzia, Sao Joao, Sao Martinho, Sao Pedro, Tavira, Torres Vedras, Tras-os-Montes, Viana do Castelo, Vila Real, Vinho Verde.

(j) *Romania:* Alba Iulia, Arges, Bistrita-Nasaud, Bujoru, Cotesti, Cotnari, Dealu Mare, Dealurile, Dragasani, Drobeta Turnuseverin, Istria, Ivesti, Jidvei, Medias, Mehedinti, Minis, Moldovei, Murfatlar, Nicoresti, Odobesti, Oltina, Panciu, Recas, Sarica Niculitel, Sebes, Segarcea, Tecuci-Galati, Teremia, Tirnave.

(k) *Spain:* Alella, Alicante, Almansa, Ampurdan-Costa Brava, Campo de Borja, Carinena, Cava, Condado de Huelva, Jumilla, La Mancha, Manzanilla-Sanlucar de Barrameda, Mentrida, Montilla-Moriles, Navarra, Penedes, Priorato, Ribeiro, Ribera del Duero, Rueda, Tarragona, Utiel-Requena, Valdeorras, Valencia, Yecla.

(l) *Switzerland:* Agarn, Aire-la-Ville, Argovie, Auvernier, Avully, Berne, Bernex, Bonvillars, Bratsch, Chalais, Chamoson, Cressier, Cully, Dardagny, Dezaley, Epesses, Erlenbach, Friburg, Fully, Geneve, Grisons, Gy, Herrliberg, Hornussen, La Cote, Lavaux, Lens, Limmattal, Lucerne, Lutry, Meilen, Montreux, Neuchatel, Niedergesteln, Riex, Rivaz, Schaffhouse, Schlossgut Herdern, Schwyz, Suisse, Swiss, Tessin, Thurgovie, Valais, Varen/Varone, Vaud, Veyrier, Villette, Zeneggen, Zurcher Unterland, Zurich.

(m) *Yugoslavia:* Blatina Mostar, Bolski Plavac, Borje, Brodska Grasevina, Crnogorski Vranac, Dingac, Erdutski Burgundac Bijeli, Faros, Grk Lumbarda, Ilocka Frankovka, Kutjevacka Grasevina, Merlot Bujstine, Plesivicki Rizling Rajnski, Porecki Merlot, Postup, Primostenski Babic, Smedereveski Sovinjon, Vinaracki Merlo, Viska Vugava, Vrsacki Rizling, Zlata Radgonska Penina.

## Subpart D—Foreign Nongeneric Names Which Are Distinctive Designations of Specific Grape Wines

### § 12.31 List of approved names by country.

The names listed in this section are foreign nongeneric names of geographic significance which are also recognized by the Administrator as distinctive designations of specific grape wines, in accordance with § 4.24(c)(1) and (3) of this chapter.

(a) *Federal Republic of Germany:* Bernkasteler Doctor (Doktor), Deidesheimer, Dexheimer Doktor, Erbacher Marcobrunn, Forster, Forster Jesuitengarten, Graacher Himmelreich, Liebfraumilch, Liebfrauenmilch, Mosel, Mosel-Saar-Ruwer, Ockfener Bockstein, Piesporter Goldtropfchen, Piesporter Michelsberg, Piesporter Treppchen, Rudesheimer, Scharzhofberger, Schloss Johannisberger, Schloss Vollrads, Wehlener Sonnenuhr, Zeller Schwarze Katz.

(b) *France:* Aloxe-Corton, Alsace or Vin d'Alsace, Anjou, Barsac, Batard-Montrachet, Beaujolais, Beaujolais Villages, Beaune, Bonnes Mares, Bordeaux, Bordeaux Blanc, Bordeaux Rouge, Bourgogne, Brouilly, Chambertin, Chambolle-Musigny, Charmes-Chambertin, Chassagne-Montrachet, Chateau Lafite, Chateau Margaux, Chateau Yquem, Chateauneuf-du-Pape, Chenas, Chevalier-Montrachet, Chiroubles, Clos de la Roche, Clos de Vougeot, Corton, Corton-Charlemagne, Cote de Beaune, Cote de Beaune-Villages, Cote de Brouilly, Cote de Nuits, Cote de Nuits-Villages, Cote Rotie, Coteaux du Layon, Cotes du Rhone, Echezeaux,

Entre-Deux-Mers, Fleurie, Gevrey-Chambertin, Grands Echezeaux, Graves, Haut Medoc, Hermitage, La Tache, Loire, Macon, Margaux, Medoc, Mercurey, Meursault, Montrachet, Morgon, Moulin-a-Vent, Muscadet, Musigny, Nuits or Nuits-Saint-Georges, Pauillac, Pomerol, Pommard, Pouilly-Fuisse, Pouilly Fume, Puligny-Montrachet, Rhone, Richebourg, Romanee-Conti, Romanee Saint-Vivant, Rose d'Anjou, Saint-Amour, Saint-Emilion, Saint-Estephe, Saint-Julien, Sancerre, Santenay, Saumur, Savigny or Savigny-les-Beaunes, Tavel, Touraine, Volnay, Vosne-Romanee, Vouvray.

(c) *Italy:* Asti Spumante, Barbaresco, Barbera d'Alba, Barbera d'Asti, Bardolino, Barolo, Brunello di Montalcino, Dolcetto d'Alba, Frascati, Gattinara, Lacryma Christi, Nebbiolo d'Alba, Orvieto, Soave, Valpolicella, Vino Nobile de Montepulciano.

(d) *Portugal:* Dao, Oporto, Porto, or Vinho do Porto.

(e) *Spain:* Lagrima, Rioja.

# PART 13—LABELING PROCEEDINGS

## Subpart A—Scope and Construction of Regulations

Sec.
13.1 Scope of part.
13.2 Delegations of the Administrator.
13.3 Related regulations.

## Subpart B—Definitions

13.11 Meaning of terms.

## Subpart C—Applications

13.20 Forms prescribed.
13.21 Application for certificate.
13.22 Withdrawal of applications.
13.23 Notice of denial.
13.25 Appeal of qualification or denial.
13.26 Decision after appeal of qualification or denial.
13.27 Second appeal of qualification or denial.

## Subpart D—Revocations of Specific Certificates

13.41 Authority to revoke certificates.
13.42 Notice of proposed revocation.
13.43 Decision after notice of proposed revocation.
13.44 Appeal of revocation.
13.45 Final decision after appeal.

## Subpart E—Revocation by Operation of Law or Regulation

13.51 Revocation by operation of law or regulation.
13.52 Notice of revocation.
13.53 Appeal of notice of revocation.
13.54 Decision after appeal.

## Subpart F—Miscellaneous

13.61 Publicity of information.
13.62 Third-party comment on certificates.
13.71 Informal conferences.
13.72 Effective dates of revocations.
13.73 Effect of revocation.
13.74 Surrender of certificates.
13.75 Evidence of receipt by TTB.
13.76 Service on applicant or certificate holder.
13.81 Representation before TTB.
13.91 Computation of time.
13.92 Extensions.

## Subpart G—Appeals Concerning Other Agencies' Rules

13.101 Appeals concerning use of the term ''organic.''

AUTHORITY: 27 U.S.C. 205(e), 26 U.S.C. 5301 and 7805.

SOURCE: T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 13 appear by T.D. ATF–449, 66 FR 19085, Apr. 13, 2001.

## Subpart A—Scope and Construction of Regulations

### § 13.1 Scope of part.

The regulations in this part govern the procedure and practice in connection with the issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals under 27 U.S.C. 205(e) and 26 U.S.C. 5301. The regulations in this part also provide for appeal procedures when applications for label approval, exemptions from label approval, or distinctive liquor bottle approvals are denied, when such applications are approved with qualifications, or when these applications are approved and then subsequently revoked. The appeal process in this part does

not apply to organic claims on alcohol beverage labels. See § 13.101.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–483, 67 FR 62858, Oct. 8, 2002 ]

### § 13.2 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.13, Delegation of the Administrator's Authorities in 27 CFR Part 13, Labeling Proceedings. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

### § 13.3 Related regulations.

The following regulations also relate to this part:

7 CFR Part 205—National Organic Program
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits
27 CFR Part 4—Labeling and Advertising of Wine
27 CFR Part 5—Labeling and Advertising of Distilled Spirits
27 CFR Part 7—Labeling and Advertising of Malt Beverages
27 CFR Part 9—American Viticultural Areas
27 CFR Part 12—Foreign Nongeneric Names of Geographic Significance Used in the Designation of Wines
27 CFR Part 16—Alcoholic Beverage Health Warning Statement
27 CFR Part 19—Distilled Spirits Plants
27 CFR Part 24—Wine
27 CFR Part 25—Beer
27 CFR Part 26—Liquors and Articles from Puerto Rico and the Virgin Islands
27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer
27 CFR 28—Exportation of Alcohol
27 CFR Part 71—Rules of Practice in Permit Proceedings

[T.D. ATF–483, 67 FR 62858, Oct. 8, 2002, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

## Subpart B—Definitions

### § 13.11 Meaning of terms.

Where used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''include'' and ''including'' do not exclude things not enumerated that are in the same general class.

*Act.* The Federal Alcohol Administration Act.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Applicant.* The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an unapproved Form 5100.31, application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.13, Delegation of the Administrator's Authorities in 27 CFR Part 13, Labeling Proceedings.

*Brewer.* Any person who brews beer (except a person who produces only beer exempt from tax under 26 U.S.C. 5053(e)) and any person who produces beer for sale.

*Certificate holder.* The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an approved Form 5100.31, certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

*Certificate of exemption from label approval.* A certificate issued on Form 5100.31 which authorizes the bottling of wine or distilled spirits, under the condition that the product will under no circumstances be sold, offered for sale,

shipped, delivered for shipment, or otherwise introduced by the applicant, directly or indirectly, into interstate or foreign commerce.

*Certificate of label approval.* A certificate issued on Form 5100.31 that authorizes the bottling or packing of wine, distilled spirits, or malt beverages, or the removal of bottled wine, distilled spirits, or malt beverages from customs custody for introduction into commerce, as long as the project bears labels identical to the labels affixed to the face of the certificate, or labels with changes authorized by the certificate.

*Distilled spirits.* Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use. The term ''distilled spirits'' does not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

*Distinctive liquor bottle.* A liquor bottle of distinctive shape or design.

*Distinctive liquor bottle approval.* Approval issued on Form 5100.31 that authorizes the bottling of distilled spirits, or the removal of bottled distilled spirits from customs custody for introduction into commerce, as long as the bottle is identical to the photograph affixed to the face of the form.

*Interstate or foreign commerce.* Commerce between any State and any place outside that State, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside that State.

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

*Malt beverage.* A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

*Permittee.* Any person holding a basic permit under the Federal Alcohol Administration Act.

*Person.* Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof.

*TTB.* The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*United States.* The several States and Territories and the District of Columbia; the term ''State'' includes a Territory and the District of Columbia; and the term ''Territory'' means the Commonwealth of Puerto Rico.

*Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

*Wine.* Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19085, Apr. 13, 2001; T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

## Subpart C—Applications

### § 13.20 Forms prescribed.

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

called for in each form must be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, the information called for in each form is that which is required by this part. The form will be filed in accordance with the instructions on the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–449, 66 FR 19085, Apr. 13, 2001, as amended by T.D. TTB–44, 71 FR 16924, Apr. 4, 2006]

### § 13.21 Application for certificate.

(a) *Form of application.* An applicant for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, must send or deliver signed duplicate copies of TTB Form 5100.31, ''Application For And Certification/Exemption Of Label/Bottle Approval'' according to the instructions for that form. If the application complies with applicable laws and regulations, a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval will be issued. If the approval is qualified in any manner, such qualifications will be set forth in the appropriate space on the form.

(b) *Time period for action on application.* Within 90 days of receipt of an application, the appropriate TTB officer must notify the applicant whether the application has been approved or denied. The appropriate TTB officer may extend this period of time once, by an additional 90 days, if he or she finds that unusual circumstances require additional time to consider the issues presented by an application. If the appropriate TTB officer extends the period, he or she must notify the applicant by letter, along with a brief explanation of the issues presented by the label. If the applicant receives no decision from the appropriate TTB officer within the time periods set forth in this paragraph, the applicant may file an appeal as provided in § 13.25.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19085, Apr. 13, 2001]

### § 13.22 Withdrawal of applications.

A person who has filed an application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may withdraw such application at any time before TTB takes action on the application.

### § 13.23 Notice of denial.

Whenever an application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval is denied, the appropriate TTB officer must issue to the applicant a notice of denial on TTB Form 5190.1, entitled ''TTB F 5100.31 Correction Sheet,'' briefly setting forth the reasons why the label or bottle is not in compliance with the applicable laws or regulations. The applicant may then submit a new application for approval after making the necessary corrections.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19085, Apr. 13, 2001]

### § 13.25 Appeal of qualification or denial.

(a) *Form of appeal.* If an applicant for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval wishes to appeal the qualified approval or denial of an application, the applicant may file a written appeal with the appropriate TTB officer within 45 days after the date of the notice of qualification or denial. The appeal should explain why the applicant believes that the label or bottle is in compliance with applicable laws and regulations. If no appeal is filed within 45 days after the date of the notice of qualification or denial, the notice will be the final decision of TTB.

(b) *Informal resolution.* Applicants may choose to pursue informal resolution of disagreements regarding correction sheets or qualifications by requesting an informal conference with the appropriate TTB officer. However,

formal administrative appeals must comply with the provisions of paragraph (a) of this section.

### § 13.26 Decision after appeal of qualification or denial.

(a) *Decision*. After considering any written arguments or evidence presented by the applicant, the appropriate TTB officer must issue a written decision to the applicant. If the decision is that the qualified approval or denial should stand, a copy of the application, marked ''appeal denied,'' must be returned to the applicant with an explanation of the decision and the specific laws or regulations relied upon in qualifying or denying the application. If the decision is that the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle application should be approved without qualification, the applicant should resubmit TTB Form 5100.31 and the certificate will be issued.

(b) *Time limits for decision*. Within 90 days of receipt of an appeal, the appropriate TTB officer must notify the appellant whether the appeal has been granted or denied. If an applicant requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate TTB officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the appropriate TTB officer extends the period, he or she must notify the applicant by letter, briefly explaining the issues presented by the label. If the appellant receives no decision from the appropriate TTB officer within the time periods set forth in this paragraph, the appellant may appeal as provided in § 13.27.

(c) *Judicial review*. Prior to applying to the Federal courts for review, an applicant must first exhaust his or her administrative remedies, including the appeal rights set forth in this section and § 13.27.

### § 13.27 Second appeal of qualification or denial.

(a) *Form of appeal*. The decision after appeal of qualification or denial may be appealed in writing to the appropriate TTB officer within 45 days after the date of that decision. If the appropriate TTB officer concludes that the qualified approval or denial was correct, a copy of the application, marked ''appeal denied,'' must be returned to the applicant, with an explanation of the decision and the specific laws or regulations relied upon in qualifying or denying the application. If the appropriate TTB officer concludes that the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle application should be approved without qualification, the applicant may resubmit TTB Form 5100.31 and the certificate will be issued.

(b) *Time limits for decision after second appeal*. Within 90 days of receipt of the second appeal, the appropriate TTB officer must notify the appellant whether the appeal has been granted or denied. If an applicant requests an informal conference as part of an appeal, as authorized in § 13.71, the 90–day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate TTB officer may extend this period of time once, by an additional 90 days, if he or she finds that unusual circumstances require additional time to consider the unique issues presented by an appeal. If the appropriate TTB officer extends the time period, he or she must notify the applicant by letter, briefly explaining the issues presented by the label. The decision made on the second appeal shall be the final decision of TTB.

(c) *Judicial review*. An appeal to the appropriate TTB officer is required prior to application to the Federal courts for review of any denial or qualification of an application.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999; T.D. ATF–406a, 64 FR 10949, Mar. 8, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

## Subpart D—Revocations of Specific Certificates

### § 13.41 Authority to revoke certificates.

Certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, previously approved on TTB Form 5100.31, may be revoked by the appropriate TTB officer upon a finding that the label or bottle at issue is not in compliance with the applicable laws or regulations.

### § 13.42 Notice of proposed revocation.

Except as provided in § 13.51, when the appropriate TTB officer determines that a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been issued for a label or bottle that is not in compliance with the laws or regulations, he or she must issue to the certificate holder a notice of proposed revocation. The notice must set forth the basis for the proposed revocation and must provide the certificate holder with 45 days from the date of receipt of the notice to present written arguments or evidence why the revocation should not occur.

### § 13.43 Decision after notice of proposed revocation.

(a) *Decision*. After considering any written arguments or evidence presented by the certificate holder, the appropriate TTB officer must issue a decision. If the decision is to revoke the certificate, a letter must be sent to the holder explaining the revocation of the certificate, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter of explanation must be sent.

(b) *Time limits for decision*. Within 90 days of receipt of written arguments or evidence from the certificate holder, the appropriate TTB officer shall notify the appellant of his or her decision. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate TTB officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by a proposed revocation. If the appropriate TTB officer extends the time period, he or she must notify the applicant by letter, along with a brief explanation of the issues under consideration.

### § 13.44 Appeal of revocation.

(a) *Filing of appeal*. A certificate holder who wishes to appeal the decision to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may file a written appeal setting forth why the holder believes that the decision was erroneous. The appeal must be filed with the appropriate TTB officer within 45 days after the date of receipt of the decision to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

(b) *Judicial review*. An appeal to the appropriate TTB officer is required prior to application to the Federal courts for review of any revocation of a certificate.

[T.D. ATF–449, 66 FR 19086, Apr.13, 2001]

### § 13.45 Final decision after appeal.

(a) *Issuance of decision*. After considering any written arguments or evidence presented by the certificate holder or the holder's representative, the appropriate TTB officer must issue a final decision. If the decision is to revoke the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter explaining the decision must be sent.

(b) *Time limits for decision*. Within 90 days of receipt of an appeal, the appropriate TTB officer must notify the holder whether the appeal has been

granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate TTB officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the appropriate TTB officer extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The final decision after appeal will be the final decision of TTB.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

## Subpart E—Revocation by Operation of Law or Regulation

### § 13.51 Revocation by operation of law or regulation.

TTB will not individually notify all holders of certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals that their approvals have been revoked if the revocation occurs by operation of either TTB-administered law or regulation or applicable law or regulation of other agencies. If changes in labeling or other requirements are made as a result of amendments or revisions to the law or regulations, the certificate holder must voluntarily surrender all certificates that are no longer in compliance. The holder must submit applications for new certificates in compliance with the new requirements, unless TTB determines that new applications are not necessary. If a new application is unnecessary, it is the responsibility of the certificate holder to ensure that labels are in compliance with their requirements of the new regulations or law.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–483, 67 FR 62858, Oct. 8, 2002]

### § 13.52 Notice of revocation.

If TTB determines that a certificate holder is still using a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval that is no longer in compliance due to amendments or revisions in the law or regulations, the appropriate TTB officer will notify the certificate holder in writing that the subject certificate has been revoked by operation of law or regulations, with a brief description of the grounds for such revocation.

### § 13.53 Appeal of notice of revocation.

Within 45 days after the date of receipt of a notice of revocation by operation of law or regulations, the certificate holder may file a written appeal with the appropriate TTB officer. The appeal should set forth the reasons why the certificate holder believes that the regulation or law at issue does not require the revocation of the certificate.

### § 13.54 Decision after appeal.

(a) *Issuance of decision.* After considering all written arguments and evidence submitted by the certificate holder, the appropriate TTB officer must issue a final decision regarding the revocation by operation of law or regulation of the certificate. If the decision is that the law or regulation at issue requires the revocation of the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and citing the specific laws or regulations which required the revocation of the certificate. If the decision is that the law or regulation at issue does not require the revocation of such certificate, a letter explaining the decision must be sent to the certificate holder. The decision after appeal will be the final decision of the TTB.

(b) *Time limits for decision.* Within 90 days of receipt of an appeal, the appropriate TTB officer must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to

allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate TTB officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the appropriate TTB officer extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The decision of the appropriate TTB officer shall be the final decision of the TTB.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

## Subpart F—Miscellaneous

### § 13.61 Publicity of information.

(a) *Pending and denied applications*—(1) *General.* Pending and denied applications for certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals are treated as proprietary information, unless the applicant or certificate holder provides written authorization to release such information.

(2) *Labels that make organic claims.* TTB will disclose applications for approval of labels that make organic claims to the appropriate office of the United States Department of Agriculture to assure such labels comply with National Organic Program rules.

(b) *Approved applications.* The appropriate TTB officer shall cause to be maintained in the TTB public reading room for public inspection, a copy of each approved application for certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval. These documents may be viewed during business hours at 1310 G Street NW., Washington, DC, or by viewing the Public COLA Registry on the TTB Web site at (*http://www.ttb.gov*).

(c) *Revoked certificates.* If an approved certificate is subsequently revoked, the record of the approved application will remain on file for public inspection, but the index will be annotated to show it was revoked.

(d) *Further disclosure of information on denied or revoked certificates.* If an applicant whose application is pending or has been denied, or a holder of a revoked certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, issues public statements concerning TTB action in connection with such application or certificate, then TTB may issue a statement to clarify its position or correct any misstatements of fact, including a disclosure of information contained on the application or certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–483, 67 FR 62859, Oct. 8, 2002]

### § 13.62 Third-party comment on certificates.

When a third party (such as foreign government, another Federal agency, a State agency, an industry association, a competitor of a certificate holder, a consumer or consumer group, or any other interested person) wishes to comment on an approved certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, such comments should be submitted in writing to the appropriate TTB officer who will review the subject of the comment. If the comment raises an issue that is outside the scope of TTB's statutory or regulatory authority, or the appropriate TTB officer determines that the certificate is in compliance with applicable law and regulations, the commenter will be informed that no further action will be taken. If the appropriate TTB officer determines that the commenter has raised a valid issue that TTB has authority to address, he or she will initiate appropriate action. The appropriate TTB officer may, in his or her discretion, notify the commenter as to the action being taken by TTB with respect to the certificate.

[T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

### § 13.71 Informal conferences.

(a) *General.* As part of a timely filed written appeal of a notice of denial, a notice of proposed revocation, or a decision to revoke a certificate, an applicant or certificate holder may file a

written request for an informal conference with the appropriate TTB officer deciding the appeal.

(b) *Informal conference procedures.* The appropriate TTB officer and the applicant or certificate holder will agree upon a date for an informal conference. The informal conference is for purposes of discussion only, and no transcript shall be made. If the applicant or certificate holder wishes to rely upon arguments, facts, or evidence presented at the informal conference, he or she has 10 days after the date of the conference to incorporate such arguments, facts, or evidence in a written submission to the appropriate TTB officer.

[T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

### § 13.72 Effective dates of revocations.

(a) *Effective dates*—(1) *Revocation of specific certificates.* A written decision to revoke a certificate becomes effective 60 days after the date of the decision.

(2) *Revocation by operation of law or regulation.* If a certificate is revoked by operation of law or regulation, the revocation becomes effective on the effective date of the change in law or regulation with which the certificate does not comply, or if a separate label compliance date is given, on that date.

(b) *Use of certificate during period of appeal.* If a certificate holder files a timely appeal after receipt of a decision to revoke a certificate pursuant to § 13.44, the holder may continue to use the certificate at issue until the effective date of a final decision issued by the appropriate TTB officer. However, the effective date of a notice of revocation by operation of law or regulations, issued pursuant to § 13.52, is not stayed pending the appeal.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

### § 13.73 Effect of revocation.

On and after the effective date of a revocation of a certificate of label approval, certificate or exemption from label approval, or distinctive liquor bottle approval, the label or distinctive liquor bottle in question may not be used to bottle or pack distilled spirits, wine or malt beverages, to remove such products from the place where they were bottled or packed, or to remove such products from customs custody for consumption.

### § 13.74 Surrender of certificates.

On the effective date of a final decision that has been issued to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, the certificate holder must surrender the original of the certificate to TTB for manual cancellation. Regardless of whether the original certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been manually canceled or not, the certificate is null and void after the effective date of the revocation. It is a violation of this section for any certificate holder to present a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval to an official of the United States Government as a valid certificate after the effective date of the revocation of the certificate if the certificate holder has been previously notified that such certificate has been revoked by TTB.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

### § 13.75 Evidence of receipt by TTB.

If there is a time limit on TTB action that runs from TTB's receipt of a document, the date of receipt may be established by a certified mail receipt or equivalent written acknowledgment secured by a commercial delivery service or by a written acknowledgment of personal delivery. In the absence of proof of receipt, the date the document is logged in by TTB will be considered the date of receipt.

### § 13.76 Service on applicant or certificate holder.

(a) *Method of service.* TTB must serve notices of denial on an applicant by first class mail, or by personal delivery. TTB must serve notices of proposed revocation and notices of revocation on a certificate holder by certified mail, return receipt requested, by a commercial delivery service that will

provide an equivalent written acknowledgment from the recipient, or by personal delivery.

(b) *Date of receipt.* If there is a time limit on a certificate holder's action that runs from the holder's receipt of a document, the date of receipt may be established by a certified mail receipt, an equivalent written acknowledgment secured by a commercial delivery service, or by a written acknowledgment of personal delivery.

(c) *Person to be served.* When service is by mail or other commercial delivery service, a copy of the document must be sent to the applicant or certificate holder at the address stated in the application or at the last known address. If authorized by the applicant or certificate holder, the copy of the document may be mailed to a designated representative. If service is by personal delivery, a copy of the document must be delivered to the certificate holder or to a designated representative. In the case of a corporation, partnership, or association, personal delivery may be made to an officer, manager, or general agent thereof, or to the attorney of record.

### § 13.81 Representation before TTB.

An applicant or certificate holder may be represented by an attorney, certified public accountant, or other person recognized to practice before TTB as provided in 31 CFR part 8 (Practice Before the Bureau of Alcohol, Tobacco and Firearms). The applicable requirements of 26 CFR 601.521 through 601.527 (conference and practice requirements for alcohol, tobacco, and firearms activities) shall apply.

### § 13.91 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, event or default after which the designated period of time is to run, is not counted. The last day of the period to be computed is counted, unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the next day that is not a Saturday, Sunday, or legal holiday. Papers or documents that are required or permitted to be filed under this part must be received at the appropriate office within the filing time limits, if any.

### § 13.92 Extensions.

An applicant or certificate holder may apply to the appropriate TTB officer deciding the appeal for an extension of any time limit prescribed in this part. The time limit may be extended if TTB agrees the request is reasonable.

[T.D. ATF–406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF–449, 66 FR 19086, Apr. 13, 2001]

## Subpart G—Appeals Concerning Other Agencies' Rules

### § 13.101 Appeals concerning use of the term "organic."

To appeal a determination that an organic claim on a label does not comply with the National Organic Program rules in 7 CFR part 205, contact the Program Manager, National Organic Program (NOP), Agricultural Marketing Service, United States Department of Agriculture. See the NOP appeal process in 7 CFR 205.680.

[T.D. ATF–483, 67 FR 62859, Oct. 8, 2002]

# PART 16—ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT

## Subpart A—Scope

Sec.
16.1 General.
16.2 Territorial extent.

## Subpart B—Definitions

16.10 Meaning of terms.

## Subpart C—Health Warning Statement Requirements for Alcoholic Beverages

16.20 General.
16.21 Mandatory label information.
16.22 General requirements.

## Subpart D—General Provisions

16.30 Certificates of label approval.
16.31 Exports.
16.32 Preemption.
16.33 Civil penalties.

AUTHORITY: 27 U.S.C. 205, 215, 218; 28 U.S.C. 2461 note.

SOURCE: T.D. ATF–294, 55 FR 5421, Feb. 14, 1990, unless otherwise noted.

## Subpart A—Scope

### § 16.1 General.

The regulations in this part relate to a health warning statement on labels of containers of alcoholic beverages.

### § 16.2 Territorial extent.

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

## Subpart B—Definitions

### § 16.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this section.

*Act.* The Alcoholic Beverage Labeling Act of 1988.

*Alcoholic beverage.* Includes any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption.

*Bottle.* To fill a container with an alcoholic beverage and to seal such container.

*Bottler.* A person who bottles an alcoholic beverage.

*Brand label.* The label carrying, in the usual distinctive design, the brand name of the alcoholic beverage.

*Container.* The innermost sealed container, irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

*Health.* Includes, but is not limited to, the prevention of accidents.

*Person.* Any individual, partnership, joint-stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

*Sale and distribution.* Includes sampling or any other distribution not for sale.

*State.* Includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

*State law.* Includes State statutes, regulations and principles and rules having the force of law.

*TTB.* The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

*Use of other terms.* Any other term defined in the Alcoholic Beverage Labeling Act and used in this part shall have the same meaning as assigned to it by the Act.

[T.D. ATF–294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. ATF–425, 65 FR 11892, Mar. 7, 2000; T.D. TTB–44, 71 FR 16925, Apr. 4, 2006]

## Subpart C—Health Warning Statement Requirements for Alcoholic Beverages

### § 16.20 General.

(a) *Domestic products.* On and after November 18, 1989, no person shall bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the health warning statement required by § 16.21. It is the responsibility of the bottler to provide, upon request, sufficient evidence to establish that the alcoholic beverage was bottled prior to November 18, 1989.

(b) *Imported products.* On and after November 18, 1989, no person shall import for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the health warning statement required by § 16.21. This requirement does not apply to alcoholic beverages that were bottled in the foreign country prior to November 18, 1989. It is the responsibility of the importer to provide, upon request, sufficient evidence to establish that the alcoholic beverage was bottled prior to such date.

### § 16.21 Mandatory label information.

There shall be stated on the brand label or separate front label, or on a back or side label, separate and apart from all other information, the following statement:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.

(2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

(Authority: Sec. 8001, Pub. L. 100–690, 102 Stat. 4181, 27 U.S.C. 215)

### § 16.22 General requirements.

(a) *Legibility*. (1) All labels shall be so designed that the statement required by § 16.21 is readily legible under ordinary conditions, and such statement shall be on a contrasting background.

(2) The first two words of the statement required by § 16.21, i.e., ''GOVERNMENT WARNING,'' shall apear in capital letters and in bold type. The remainder of the warning statement may not appear in bold type.

(3) The letters and/or words of the statement required by § 16.21 shall not be compressed in such a manner that the warning statement is not readily legible.

(4) The warning statement required by § 16.21 shall appear in a maximum number of characters (i.e., letters, numbers, marks) per inch, as follows:

| Minimum required type size for warning statement | Maximum number of characters per inch |
|---|---|
| 1 millimeter | 40 |
| 2 millimeters | 25 |
| 3 millimeters | 12 |

(b) *Size of type*. (1) Containers of 237 milliliters (8 fl. oz.) or less. The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 1 millimeter.

(2) Containers of more than 237 milliliters (8 fl. oz.) up to 3 liters (101 fl. oz.). The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 2 millimeters.

(3) Containers of more than 3 liters (101 fl. oz.). The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 3 millimeters.

(c) *Labels firmly affixed*. Labels bearing the statement required by § 16.21 which are not an integral part of the container shall be affixed to containers of alcoholic beverages in such manner that thay cannot be removed without thorough application of water or other solvents.

[T.D. ATF–294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. 372, 61 FR 20723, May 8, 1996]

## Subpart D—General Provisions

### § 16.30 Certificates of label approval.

Certificates of label/bottle approval or certificates of exemption from label approval on TTB Form 5100.31, issued pursuant to parts 4, 5, and 7 of this chapter for imported and domestically bottled wine, distilled spirits, and malt beverages, shall not be approved with respect to such beverage bottled on and after November 18, 1989, unless the label for the container of such beverage bears the health warning statement required.

[T.D. ATF–294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. ATF–425, 65 FR 11892, Mar. 7, 2000]

### § 16.31 Exports.

The regulations in this part shall not apply with respect to alcoholic beverages that are produced, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided*, That this exemption shall not apply with respect to alcoholic beverages that are produced, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

### § 16.32 Preemption.

No statement relating to alcoholic beverages and health, other than the statement required by § 16.21, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material

from which made, that contains such a container.

**§ 16.33 Civil penalties.**

(a) *General.* Any person who violates the provisions of this part shall be subject to a civil penalty of not more than $10,000, and each day shall constitute a separate offense.

(b) *Adjusted penalty for violations occurring after October 23, 1996.* Pursuant to the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the civil penalty provided for in paragraph (a) of this section shall be periodically adjusted in accordance with inflation. Accordingly, for violations occurring after October 23, 1996, the civil penalty shall be not more than $11,000.

[T.D. ATF–385, 61 FR 54936, Oct. 23, 1996]

# PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

## Subpart A—General Provisions

Sec.
17.1 Scope of regulations.
17.2 Forms prescribed.
17.3 Alternate methods or procedures.
17.4 OMB control numbers assigned under the Paperwork Reduction Act.
17.5 Products manufactured in Puerto Rico or the Virgin Islands.
17.6 Signature authority.
17.7 Delegations of the Administrator.

## Subpart B—Definitions

17.11 Meaning of terms.

## Subpart C—Special Tax

17.21 Payment of special tax.
17.22 Rate of special tax
17.23 Special tax for each place of business.
17.24 Time for payment of special tax.

SPECIAL TAX RETURNS

17.31 Filing of return and payment of special tax.
17.32 Completion of TTB Form 5630.5.
17.33 Signature on returns, TTB Form 5630.5.
17.34 Verification of returns.

EMPLOYER IDENTIFICATION NUMBER

17.41 Requirement for employer identification number.
17.42 Application for employer identification number.
17.43 Preparation and filing of Form SS–4.

## Subpart D—Special Tax Stamps

17.51 Issuance of stamps.
17.52 Distribution of stamps for multiple locations.
17.53 Correction of errors on stamps.
17.54 Lost or destroyed stamps.
17.55 Retention of special tax stamps.

CHANGE IN LOCATION

17.61 General.
17.62 Failure to register.
17.63 Certificates in lieu of lost stamps.

CHANGE IN CONTROL

17.71 General.
17.72 Right of succession.
17.73 Failure to register.
17.74 Certificates in lieu of lost stamps.
17.75 Formation of partnership or corporation.
17.76 Addition or withdrawal of partners.
17.77 Reincorporation.

CHANGE IN NAME OR STYLE

17.81 General.
17.82 Change in capital stock.
17.83 Sale of stock.

REFUND OF SPECIAL TAX

17.91 Absence of liability, refund of special tax.
17.92 Filing of refund claim.
17.93 Time limit for filing refund claim.

## Subpart E—Bonds and Consents of Sureties

17.101 General.
17.102 Amount of bond.
17.103 Bonds obtained from surety companies.
17.104 Deposit of collateral.
17.105 Filing of powers of attorney.
17.106 Consents of surety.
17.107 Strengthening bonds.
17.108 Superseding bonds.

TERMINATION OF BONDS

17.111 General.
17.112 Notice by surety of termination of bond.
17.113 Extent of release of surety from liability under bond.
17.114 Release of collateral.

## Subpart F—Formulas and Samples

17.121 Product formulas.
17.122 Amended or revised formulas.
17.123 Statement of process.
17.124 Samples.
17.125 Adoption of formulas and processes.

17.126 Formulas for intermediate products.
17.127 Self-manufactured ingredients treated optionally as unfinished nonbeverage products.

APPROVAL OF FORMULAS

17.131 Formulas on TTB Form 5154.1.
17.132 U.S.P., N.F., and H.P.U.S. preparations.
17.133 Food product formulas.
17.134 Determination of unfitness for beverage purposes.
17.135 Use of specially denatured alcohol (S.D.A.).
17.136 Compliance with Food and Drug Administration requirements.
17.137 Formulas disapproved for drawback.

Subpart G—Claims for Drawback

17.141 Drawback.
17.142 Claims.
17.143 Notice for monthly claims.
17.144 Bond for monthly claims.
17.145 Date of filing claim.
17.146 Information to be shown by the claim.
17.147 Supporting data.
17.148 Allowance of claims.

SPIRITS SUBJECT TO DRAWBACK

17.151 Use of distilled spirits.
17.152 Time of use of spirits.
17.153 Recovered spirits.
17.154 Spirits contained in intermediate products.
17.155 Spirits consumed in manufacturing intermediate products.

Subpart H—Records

17.161 General.
17.162 Receipt of distilled spirits.
17.163 Evidence of taxpayment of distilled spirits.
17.164 Production record.
17.165 Receipt of raw ingredients.
17.166 Disposition of nonbeverage products.
17.167 Inventories.
17.168 Recovered spirits.
17.169 Transfer of intermediate products.
17.170 Retention of records.
17.171 Inspection of records.

Subpart I—Miscellaneous Provisions

17.181 Exportation of medicinal preparations and flavoring extracts.
17.182 Drawback claims by druggists.
17.183 Disposition of recovered alcohol and material from which alcohol can be recovered.
17.184 Distilled spirits container marks.
17.185 Requirements for intermediate products and unfinished nonbeverage products.
17.186 Transfer of distilled spirits to other containers.
17.187 Discontinuance of business.

AUTHORITY: 26 U.S.C. 5010, 5131–5134, 5143, 5146, 5148, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7011, 7213, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: T.D. ATF–379, 61 FR 31412, June 20, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 17 appear by T.D. ATF–436, 66 FR 5470, 5471, Jan. 19, 2001.

## Subpart A—General Provisions

### § 17.1 Scope of regulations.

The regulations in this part apply to the manufacture of medicines, medicinal preparations, food products, flavors, flavoring extracts, and perfume that are unfit for beverage use and are made with taxpaid distilled spirits. The regulations cover the following topics: obtaining drawback of internal revenue tax on distilled spirits used in the manufacture of nonbeverage products; the payment of special (occupational) taxes in order to be eligible to receive drawback; and bonds, claims, formulas and samples, losses, and records to be kept pertaining to the manufacture of nonbeverage products.

### § 17.2 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms, including bonds and records, required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5470, Jan. 19, 2001; T.D. TTB–44, 71 FR 16925, Apr. 4, 2006]

**§ 17.3 Alternate methods or procedures.**

(a) *General.* The appropriate TTB officer may approve the use of an alternate method or procedure in lieu of a method or procedure prescribed in this part if he or she finds that—

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

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the method or procedure prescribed by this part, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

(b) *Application.* A letter of application to employ an alternate method or procedure must be submitted to the appropriate TTB officer. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor.

(c) *Approval.* No alternate method or procedure shall be employed until the application has been approved by the appropriate TTB officer. The appropriate TTB officer shall not approve any alternate method relating to the giving of any bond or to the assessment, payment, or collection of any tax. The manufacturer shall, during the period of authorization, comply with the terms of the approved application and with any conditions thereto stated by the appropriate TTB officer in the approval. Authorization for any alternate method or procedure may be withdrawn by written notice from the Administrator whenever in his or her judgment the revenue is jeopardized, the effective administration of this part is hindered, or good cause for the authorization no longer exists. The manufacturer shall retain, in the records required by § 17.170, any authorization given by the appropriate TTB officer under this section.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5470, Jan. 19, 2001]

**§ 17.4 OMB control numbers assigned under the Paperwork Reduction Act.**

(a) *Purpose.* This section collects and displays the control numbers assigned to the information collection requirements of this part by the Office of Management and Budget under the Paperwork Reduction Act of 1980, Public Law 96–511.

(b) *OMB control number 1512–0078.* OMB control number 1512–0078 is assigned to the following section in this part: § 17.106.

(c) *OMB control number 1512–0079.* OMB control number 1512–0079 is assigned to the following sections in this part: §§ 17.6 and 17.105.

(d) *OMB control number 1512–0095.* OMB control number 1512–0095 is assigned to the following sections in this part: §§ 17.121, 17.126, 17.127, 17.132, and 17.136.

(e) *OMB control number 1512–0141.* OMB control number 1512–0141 is assigned to the following sections in this part: §§ 17.92, 17.93, 17.142, 17.145, and 17.146.

(f) *OMB control number 1512–0188.* OMB control number 1512–0188 is assigned to the following section in this part: § 17.6.

(g) *OMB control number 1512–0378.* OMB control number 1512–0378 is assigned to the following sections in this part: §§ 17.3, 17.54, 17.111, 17.112, 17.122, 17.123, 17.124, 17.125, 17.143, 17.168(a), 17.183, and 17.187.

(h) *OMB control number 1512–0379.* OMB control number 1512–0379 is assigned to the following sections in this part: §§ 17.161, 17.162, 17.163, 17.164, 17.165, 17.166, 17.167, 17.168(b), 17.169, 17.170, 17.182, and 17.186.

(i) *OMB control number 1512–0472.* OMB control number 1512–0472 is assigned to the following sections in this part: §§ 17.31, 17.32, 17.33, 17.34, 17.41, 17.53, 17.61, 17.63, 17.71, and 17.74.

(j) *OMB control number 1512–0492.* OMB control number 1512–0492 is assigned to the following sections in this part: §§ 17.42, 17.43, 17.52, and 17.55.

(k) *OMB control number 1512–0500.* OMB control number 1512–0500 is assigned to the following sections in this part: §§ 17.31, 17.32, 17.33, 17.34, 17.41, and 17.53.

(l) *OMB control number 1512–0514.* OMB control number 1512–0514 is assigned to the following sections in this part: §§ 17.147 and 17.182.

### § 17.5 Products manufactured in Puerto Rico or the Virgin Islands.

For additional provisions regarding drawback on distilled spirits contained in medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the U.S. Virgin Islands, see part 26, subparts I and Ob, of this chapter.

[T.D. ATF–436, 66 FR 5470, 5471, Jan. 19, 2001, as amended by T.D. ATF–459, 66 FR 38549, July 25, 2001]

### § 17.6 Signature authority.

No claim, bond, tax return, or other required document executed by a person as an agent or representative is acceptable unless a power of attorney or other proper notification of signature authority has been filed with the TTB office where the required document must be filed. The appropriate TTB officer with whom the claim or other required document is filed may, when he or she considers it necessary, require additional evidence of the authority of the agent or representative to execute the document. Except as otherwise provided by this part, powers of attorney shall be filed on TTB Form 1534 (5000.8), Power of Attorney. Notification of signature authority of partners, officers, or employees may be given by filing a copy of corporate or partnership documents, minutes of a meeting of the board of directors, etc. For corporate officers or employees, TTB Form 5100.1, Signing Authority for Corporate Officials, may be used. For additional provisions regarding powers of attorney, see § 17.105 and 26 CFR part 601, subpart E.

### § 17.7 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.17, Delegation of the Administrator's Authorities in 27 CFR Part 17, Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–436, 66 FR 5470, Jan. 19, 2001, as amended by T.D. TTB–44, 71 FR 16926, Apr. 4, 2006]

## Subpart B—Definitions

### § 17.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms ''includes'' and ''including'' do not exclude things not listed which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.17, Delegation of the Administrator's Authorities in 27 CFR Part 17, Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products.

*Approved,* or *approved for drawback.* When used with reference to products and their formulas, this term means that drawback may be claimed on eligible spirits used in such products in accordance with this part.

*CFR.* The Code of Federal Regulations.

*Distilled spirits,* or *spirits.* That substance known as ethyl alcohol, ethanol, spirits, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced).

*Effective tax rate.* The net tax rate, after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content, at which the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is paid or determined. For distilled

spirits with no wine or flavors content, the effective tax rate equals the rate of tax imposed by 26 U.S.C. 5001 or 7652.

*Eligible,* or *eligible for drawback.* When used with reference to spirits, this term designates taxpaid spirits which have not yet been used in nonbeverage products.

*Filed.* Subject to the provisions of §§ 70.305 and 70.306 of this chapter, a claim for drawback or other document or payment submitted under this part is generally considered to have been ''filed'' when it is received by the office of the proper Government official; but if an item is mailed timely with postage prepaid, then the United States postmark date is treated as the date of filing.

*Food products.* Includes food adjuncts, such as preservatives, emulsifying agents, and food colorings, which are manufactured and used, or sold for use, in food.

*Intermediate products.* Products to which all three of the following conditions apply: they are made with taxpaid distilled spirits, they have been disapproved for drawback, and they are made by the manufacturer exclusively for its own use in the manufacture of nonbeverage products approved for drawback. However, ingredients treated as unfinished nonbeverage products under § 17.127 are not considered to be intermediate products.

*Medicines.* Includes laboratory stains and reagents for use in medical diagnostic procedures.

*Month.* A calendar month.

*Nonbeverage products.* Medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are manufactured using taxpaid distilled spirits, and which are unfit for use for beverage purposes.

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

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

*Quarter.* A 3-month period beginning January 1, April 1, July 1, or October 1.

*Recovered spirits.* Taxpaid spirits that have been salvaged, after use in the manufacture of a product or ingredient, so that the spirits are reusable.

*Special tax.* The special (occupational) tax on manufacturers of nonbeverage products, imposed by 26 U.S.C. 5131.

*Subject to drawback.* This term is used with reference to spirits. Eligible spirits become ''subject to drawback'' when they are used in the manufacture of a nonbeverage product. When spirits have become ''subject to drawback,'' they may be included in the manufacturer's claim for drawback of tax covering the period in which they were first used.

*Tax year.* The period from July l of one calendar year through June 30 of the following year.

*Taxpaid.* When used with respect to distilled spirits, this term shall mean that all taxes imposed on such spirits by 26 U.S.C. 5001 or 7652 have been determined or paid as provided by law.

*This chapter.* Chapter I of title 27 of the Code of Federal Regulations.

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

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5470, Jan. 19, 2001; T.D. TTB–44, 71 FR 16926, Apr. 4, 2006]

## Subpart C—Special Tax

### § 17.21 Payment of special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, each person who uses taxpaid distilled spirits in the manufacture or production of nonbeverage products shall pay special tax as specified in § 17.22 in order to be eligible to receive drawback on the spirits so used. Special tax shall be paid for each tax year during which spirits were used in the manufacture of a product covered by a drawback claim. If a claim is filed covering taxpaid distilled spirits used during the preceding tax year, and special tax has not been paid for the preceding tax year, then special tax for the preceding tax year shall be paid. Regardless of the portion of a tax year covered by a claim, the full annual special tax shall be paid. The manufacturer is not required to pay the special tax if drawback is not claimed.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. Accordingly, payment of the tax is not a prerequisite for claiming drawback on spirits used during that period. However, the drawback claimant still must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.22 Rate of special tax.

Effective January 1, 1988, the rate of special tax is $500 per tax year for all persons claiming drawback on distilled spirits used in the manufacture or production of nonbeverage products, except that the tax rate is zero during the suspension period described in § 17.21(b).

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.23 Special tax for each place of business.

Subject to § 17.21(b), a separate special tax shall be paid for each place where distilled spirits are used in the manufacture or production of nonbeverage products, except for any such place in a tax year for which no claim is filed, or no drawback is paid, on spirits used at that place.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.24 Time for payment of special tax.

(a) *General.* Special tax may be paid in advance of actual use of distilled spirits. Special tax shall be paid before a claimant may receive drawback. Special tax may be paid without penalty under 26 U.S.C. 5134(c) at any time prior to completion of final action on the claim.

(b) *Suspension of tax.* The rate of special tax is zero during the period from July 1, 2005, through June 30, 2008 (see § 17.21(b)). During this period, the registration requirement continues. The drawback claimant must register by filing a special tax return, Form 5630.5. The claimant may register without penalty under 26 U.S.C. 5134(c) at any time prior to completion of final action on the first claim submitted for each tax year.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

## SPECIAL TAX RETURNS

### § 17.31 Filing of return and payment of special tax.

Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 17.21(b).

(26 U.S.C. 6091, 6151)

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.32 Completion of TTB Form 5630.5.

(a) *General.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see §§ 17.41–43).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 17.21(b).

(6) Ownership and control information: The name, position, and residence address of every owner of the business and of every person having power to control its management and policies

with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner if the taxpayer is a partnership, and every person owning 10% or more of its stock if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB, and if the information previously provided is still current.

(b) *Multiple locations.* A taxpayer subject to special tax, or required to register during the suspension period described in § 17.21(b), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, Form 5630.5, with payment of applicable tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on the Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid, or for which registration is being made during the suspension period described in § 17.21(b). The original of the list shall be filed in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 17.170.

(26 U.S.C. 6011, 7011)

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.33 Signature on returns, TTB Form 5630.5.

The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by a general partner; and the return of a corporation shall be signed by a corporate officer. All signatures must be original; photocopies are not acceptable. In each case, the person signing the return shall designate his or her capacity, as ''individual owner,'' ''member of partnership,'' or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

### § 17.34 Verification of returns.

TTB Forms 5630.5 shall contain or be verified by a written declaration that the return is made under the penalties of perjury.

(68A Stat. 749 (26 U.S.C. 6065))

EMPLOYER IDENTIFICATION NUMBER

### § 17.41 Requirement for employer identification number.

The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return (TTB Form 5630.5), including amended returns filed under this subpart. Failure of the taxpayer to include the employer identification number on Form 5630.5 may result in assertion and collection of the penalty specified in § 70.113 of this chapter.

(Secs. 1(a), (b), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109, 6723))

### § 17.42 Application for employer identification number.

(a) An employer identification number is assigned pursuant to application on IRS Form SS–4, Application for Employer Identification Number, filed by the taxpayer. Form SS–4 may be obtained from any office of the Internal Revenue Service.

(b) Each taxpayer who files a return on TTB Form 5630.5 shall make application on IRS Form SS–4 for an employer identification number, unless he or she has already been assigned such a number or made application for one. The application on Form SS–4 shall be filed on or before the seventh day after the date on which the first return on Form 5630.5 is filed.

(c) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file Form 5630.5.

(Sec. 1(a), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109))

### § 17.43 Preparation and filing of Form SS–4.

The taxpayer shall prepare and file the application on IRS Form SS–4, together with any supplementary statement, in accordance with instructions on the form or issued in respect to it.

(Sec. 1(a), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109))

## Subpart D—Special Tax Stamps

### § 17.51 Issuance of stamps.

(a) Except as otherwise provided in paragraph (b) of this section, each manufacturer of nonbeverage products, upon filing a properly executed return on TTB Form 5630.5, together with the proper tax payment in the applicable full amount due, shall be issued a special tax stamp designated ''Manufacturer of Nonbeverage Products.'' This special tax stamp shall not be sold or otherwise transferred to another person (except as provided in §§ 17.71 and 17.72). If the Form 5630.5 submitted with the tax payment covers multiple locations, the taxpayer shall be issued one appropriately designated stamp for each location listed in the attachment to Form 5630.5 required by § 17.32(b)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) During the suspension period described in § 17.21(b) when registration is required but no tax is due, a special tax stamp will not be issued.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.52 Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer shall verify that a stamp has been obtained for each location listed on the retained copy of the attachment to TTB Form 5630.5 required by § 17.32(b)(2). The taxpayer shall designate one stamp for each location and shall type on it the trade name (if different from the name in which the stamp was issued) and address of the business conducted at the location for which the stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

### § 17.53 Correction of errors on stamps.

(a) *Single location.* On receipt of a special tax stamp, the taxpayer shall examine it to ensure that the name and address are correctly stated. If an error has been made, the taxpayer shall return the stamp to TTB at the address shown thereon, with a statement showing the nature of the error and setting forth the proper name or address. On receipt of the stamp and statement, the data shall be compared with that on TTB Form 5630.5, and if an error on the part of TTB has been made, the stamp shall be corrected and returned to the taxpayer. If the Form 5630.5 agrees with the data on the stamp, the taxpayer shall be required to file a new Form 5630.5, designated ''Amended Return,'' disclosing the proper name and address.

(b) *Multiple locations.* If an error is discovered on a special tax stamp obtained under the provisions of § 17.32(b), relating to multiple locations, and if the error concerns any of the information contained in the attachment to Form 5630.5, the taxpayer shall return the stamp, with a statement showing the nature of the error and the correct data, to his or her principal office. The data on the stamp shall then be compared with the taxpayer's copy of the attachment to Form 5630.5, retained at the principal office. If the error is in the name and address and was made by the taxpayer, the taxpayer shall correct the stamp and return it to the designated place of business. If the error was made in the attachment to Form 5630.5, the taxpayer shall file with TTB an amended Form 5630.5 and an amended attachment with a statement showing the error.

### § 17.54 Lost or destroyed stamps.

If a special tax stamp is lost or accidentally destroyed, the taxpayer shall immediately notify the appropriate TTB officer. On receipt of this notification, the appropriate TTB officer shall issue to the taxpayer a ''Certificate in Lieu of Lost or Destroyed Special Tax Stamp.'' The taxpayer shall keep the certificate available for inspection in

the same manner as prescribed for a special tax stamp in § 17.55.

### § 17.55 Retention of special tax stamps.

Taxpayers shall keep their special tax stamps at the place of business covered thereby for the period specified in § 17.170, and shall make them available for inspection by any appropriate TTB officer during business hours.

(Title II, sec. 201, Pub. L. 85–859, 72 Stat. 1348 (26 U.S.C. 5146))

CHANGE IN LOCATION

### § 17.61 General.

A manufacturer who, during a tax year for which a special tax return has been filed with payment of any tax due, moves its place of manufacture to a place other than that specified on the return, shall register the change, by executing a new return on Form 5630.5, designated as ''Amended Return.'' This Amended Return shall set forth the time of the move and the address of the new location. If a special tax stamp was issued for the former location, the taxpayer shall also submit the special tax stamp for endorsement of the change in location. In general, the taxpayer must submit the new return and the special tax stamp within 90 days after the move to the new premises. However, if the move occurs during the suspension period described in § 17.21(b) when no tax was due and no special tax stamp was issued, the taxpayer may submit the new return alone without penalty at any time prior to completion of final action on the first claim covering use of spirits at the new premises, or within 90 days of the move, whichever is later.

(Title II, sec. 201, Pub. L. 85–859, 72 Stat. 1374 (26 U.S.C. 5143))

[T.D. TTB–36, 70 FR 62241, Oct. 31, 2005]

### § 17.62 Failure to register.

Except in the case of claims covering spirits used during the suspension period described in § 17.21(b) when the special tax rate is zero, a manufacturer who fails to register a change of location with TTB, as required by § 17.61, shall pay a new special tax for the new location if a claim for drawback is filed on distilled spirits used at the new location during the tax year for which the original special tax was paid.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.63 Certificates in lieu of lost stamps.

The provisions of §§ 17.61 and 17.62 apply to certificates issued in lieu of lost or destroyed special tax stamps.

CHANGE IN CONTROL

### § 17.71 General.

(a) Subject to paragraph (b) of this section, certain persons may qualify for succession to the same privileges granted by law to the taxpayer, to cover the remainder of the tax year for which the special tax was paid, or for which registration was made during the suspension period described in § 17.21(b). Those who may qualify are specified in § 17.72. To secure these privileges, the successor or successors shall file with TTB, within 90 days after the date on which the successor or successors assume control, a return on TTB Form 5630.5, showing the basis of the succession.

(b) With respect to spirits used during the suspension period described in § 17.21(b), the successor or successors must file the return prior to completion of final action on the claim(s) covering such spirits, or within 90 days of the change in control, whichever is later.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.72 Right of succession.

Under the conditions set out in § 17.71, persons listed below have the right of succession:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a taxpayer.

(b) A husband or wife succeeding to the business of his or her living spouse.

(c) A receiver or trustee in bankruptcy, or an assignee for the benefit of creditors.

(d) The members of a partnership remaining after the death or withdrawal of a general partner.

### § 17.73 Failure to register.

Except in the case of claims covering spirits used during the suspension period described in § 17.21(b) when the special tax rate is zero, a person eligible for succession to the privileges of a taxpayer, in accordance with §§ 17.71 and 17.72, who fails to register the succession with TTB, as required by § 17.71, shall pay a new special tax if a claim for drawback is filed on distilled spirits used by the successor during the tax year for which the original special tax was paid.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.74 Certificates in lieu of lost stamps.

The provisions of §§ 17.71–73 apply to certificates issued in lieu of lost or destroyed special tax stamps.

### § 17.75 Formation of partnership or corporation.

If one or more persons who have filed a special tax return and paid any tax due form a partnership or corporation, as a separate legal entity, to take over the business of manufacturing nonbeverage products, the new firm or corporation shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback. In the case of claims covering spirits used during the suspension period described in § 17.21(b), the rate of special tax is zero.

[T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.76 Addition or withdrawal of partners.

(a) *General partners.* When a business formed as a partnership, subject to the filing of a special tax return, admits one or more new general partners, the new partnership shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback (in the case of claims covering spirits used during the suspension period described in § 17.21(b), the rate of special tax is zero). Withdrawal of general partners is covered by § 17.72(d).

(b) *Limited partners.* Changes in the membership of a limited partnership requiring amendment of the certificate but not dissolution of the partnership are not changes that incur liability to additional special tax or that require the filing of a new special tax return.

[T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.77 Reincorporation.

When a new corporation is formed to take over and conduct the business of one or more corporations that have filed a special tax return and paid any tax due, the new corporation must file a new special tax return, pay special tax, and obtain a special tax stamp in its own name. However, in the case of spirits used during the suspension period described in § 17.21(b) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

[T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

## CHANGE IN NAME OR STYLE

### § 17.81 General.

A person who filed a special tax return and paid any tax due is not required to file a new special tax return or pay a new special tax by reason of a mere change in the trade name or style under which the business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.82 Change in capital stock.

A new special tax return and tax payment are not required by reason of a change of name or increase in the capital stock of a corporation, if the laws of the State of incorporation provide for such changes without creating a new corporation.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

### § 17.83 Sale of stock.

A new special tax return and tax payment are not required by reason of the sale or transfer of all or a controlling

interest in the capital stock of a corporation.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]

REFUND OF SPECIAL TAX

### § 17.91 Absence of liability, refund of special tax.

The special tax paid may be refunded if it is established that the taxpayer did not file a claim for drawback for the period covered by the special tax stamp. If a claim for drawback is filed, the special tax may be refunded if no drawback is paid or allowed for the period covered by the stamp.

### § 17.92 Filing of refund claim.

Claim for refund of special tax must be filed on TTB Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. The claim must set forth in detail sufficient reasons and supporting facts of the exact basis of the claim. The special tax stamp shall be attached to the claim.

(68A Stat. 791 (26 U.S.C. 6402))

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 17.93 Time limit for filing refund claim.

A claim for refund of special tax shall not be allowed unless filed within three years after the payment of the tax.

(68A Stat. 808 (26 U.S.C. 6511))

## Subpart E—Bonds and Consents of Sureties

### § 17.101 General.

A bond shall be filed by each person claiming drawback on a monthly basis. Persons who claim drawback on a quarterly basis are not required to file bonds. Bonds shall be prepared and executed on TTB Form 5154.3, Bond for Drawback Under 26 U.S.C. 5131, in accordance with the provisions of this part and the instructions printed on the form. The bond requirement of this part shall be satisfied either by bonds obtained from authorized surety companies or by deposit of collateral security. Appropriate TTB officers are authorized to approve all bonds and consents of surety required by this part.

### § 17.102 Amount of bond.

The bond shall be a continuing one, in an amount sufficient to cover the total drawback to be claimed on spirits used during any quarter. However, the amount of any bond shall not exceed $200,000 nor be less than $1,000.

### § 17.103 Bonds obtained from surety companies.

(a) The bond may be obtained from any surety company authorized by the Secretary of the Treasury to be a surety on Federal bonds. Surety companies so authorized are listed in the current revision of Department of the Treasury Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies), and subject to such amendatory circulars as may be issued from time to time. Bonds obtained from surety companies are also governed by the provisions of 31 U.S.C. 9304, and 31 CFR part 223.

(b) A bond executed by two or more surety companies shall be the joint and several liability of the principal and the sureties; however, each surety company may limit its liability, in terms upon the face of the bond, to a definite, specified amount. This amount shall not exceed the limitations prescribed for each surety company by the Secretary, as stated in Department of the Treasury Circular 570. If the sureties limit their liability in this way, the total of the limited liabilities shall equal the required amount of the bond.

(c) Department of the Treasury Circular No. 570 is published in the FEDERAL REGISTER annually on the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies of the circular may be obtained from: Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20227.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1047 (31 U.S.C. 9304))

### § 17.104 Deposit of collateral.

Except as otherwise provided by law or regulations, bonds or notes of the

United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of bonds obtained from surety companies. Deposit of collateral security is governed by the provisions of 31 U.S.C. 9303, and 31 CFR part 225.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1046 (31 U.S.C. 9301, 9303))

### § 17.105 Filing of powers of attorney.

(a) *Surety companies.* The surety company shall prepare and submit with each bond, and with each consent to changes in the terms of a bond, a power of attorney in accordance with § 17.6, authorizing the agent or officer who executed the bond or consent to act in this capacity on behalf of the surety. 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 other than a manually signed original is submitted, it shall be accompanied by certification of its validity.

(b) *Principal.* The principal shall execute and file a power of attorney, in accordance with § 17.6, for every person authorized to execute bonds on behalf of the principal.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1047 (31 U.S.C. 9304, 9306))

### § 17.106 Consents of surety.

The principal and surety shall execute on TTB Form 1533 (5000.18), Consent of Surety, any consents of surety to changes in the terms of bonds. Form 1533 (5000.18) shall be executed with the same formality and proof of authority as is required for the execution of bonds.

### § 17.107 Strengthening bonds.

Whenever the amount of a bond on file and in effect becomes insufficient, the principal may give a strengthening bond in a sufficient amount, provided the surety is the same as on the bond already on file and in effect; otherwise a superseding bond covering the entire liability shall be filed. Strengthening bonds, filed to increase the bond liability of the surety, shall not be construed in any sense to be substitute bonds, and the appropriate TTB officer shall not approve a strengthening bond containing any notation which may be interpreted as a release of any former bond or as limiting the amount of either bond to less than its full amount.

### § 17.108 Superseding bonds.

(a) The principal on any bond filed pursuant to this part may at any time replace it with a superseding bond.

(b) Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity continuing or liquidating the business of the principal, shall execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds.

(c) When, in the opinion of the appropriate TTB officer, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal shall file a superseding bond. A superseding bond shall be filed immediately in case of the insolvency of the surety. If a bond is found to be not acceptable or for any reason becomes invalid or of no effect, the principal shall immediately file a satisfactory superseding bond.

(d) A bond filed under this section to supersede an existing bond shall be marked by the obligors at the time of execution, ''Superseding Bond.'' When such a bond is approved, the superseded bond shall be released as to transactions occurring wholly subsequent to the effective date of the superseding bond, and notice of termination of the superseded bond shall be issued, as provided in § 17.111.

## TERMINATION OF BONDS

### § 17.111 General.

(a) Bonds on TTB Form 5154.3 shall be terminated by the appropriate TTB officer, as to liability on drawback allowed after a specified future date, in the following circumstances:

(1) Pursuant to a notice by the surety as provided in § 17.112.

(2) Following approval of a superseding bond, as provided in § 17.108.

(3) Following notification by the principal of an intent to discontinue the filing of claims on a monthly basis.

(b) However, the bond shall not be terminated until all outstanding liability under it has been discharged. Upon termination, the appropriate TTB officer shall mark the bond ''canceled,'' followed by the date of cancellation, and shall issue a notice of termination of bond. A copy of this notice shall be given to the principal and to each surety.

### § 17.112 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 the appropriate TTB officer in whose office the bond is on file that the surety desires, after a date named, to be relieved of liability under the bond. Unless the notice is withdrawn, in writing, before the date named in it, the notice shall take effect on that date. The date shall not be less than 60 days after the date on which both the notice and proof of service on the principal have been received by the appropriate TTB officer. The surety shall deliver one copy of the notice to the principal and the original to the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal.

### § 17.113 Extent of release of surety from liability under bond.

The rights of the principal as supported by the bond shall cease as of the date when termination of the bond takes effect, and the surety shall be relieved from liability for drawback allowed on and after that date. Liability for drawback previously allowed shall continue until the claims for such drawback have been properly verified by the appropriate TTB officer according to law and this part.

### § 17.114 Release of collateral.

The release of collateral security pledged and deposited to satisfy the bond requirement of this part is governed by the provisions of 31 CFR part 225. When the appropriate TTB officer determines that there is no outstanding liability under the bond, and is satisfied that the interests of the Government will not be jeopardized, the security shall be released and returned to the principal.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1046 (31 U.S.C. 9301, 9303))

## Subpart F—Formulas and Samples

### § 17.121 Product formulas.

(a) *General.* Except as provided in §§ 17.132 and 17.182, manufacturers shall file quantitative formulas for all preparations for which they intend to file drawback claims. Such formulas shall state the quantity of each ingredient, and shall separately state the quantity of spirits to be recovered or to be consumed as an essential part of the manufacturing process.

(b) *Filing.* Formulas shall be filed on TTB Form 5154.1, Formula and Process for Nonbeverage Products. Filing shall be accomplished no later than 6 months after the end of the quarter in which taxpaid distilled spirits were first used to manufacture the product for purposes of drawback. If a product's formula is disapproved, no drawback shall be allowed on spirits used to manufacture that product, unless it is later used as an intermediate product, as provided in § 17.137.

(c) *Numbering.* The formulas shall be serially numbered by the manufacturer, commencing with number 1 and continuing thereafter in numerical sequence. However, a new formula for use at several plants shall be given the highest number next in sequence at any of those plants. The numbers that were skipped at the other plants shall not be used subsequently.

(d) *Distribution and retention of approved formulas.* One copy of each approved Form 5154.1 shall be returned to the manufacturer. The formulas returned to manufacturers shall be kept in serial order at the place of manufacture, as provided in § 17.170, and shall be made available to appropriate TTB officers for examination in the investigation of drawback claims.

[T.D. ATF–179, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 17.122 Amended or revised formulas.

Except as provided in this section, amended or revised formulas are considered to be new formulas and shall be numbered accordingly. Minor changes may be made to a current formula on TTB Form 5154.1 with retention of the original formula number, if approval is obtained from the appropriate TTB officer. In order to obtain approval to make a minor formula change, the person holding the Form 5154.1 shall submit a letter of application to the appropriate TTB officer, indicating the formula change and requesting that the proposed change be considered a minor change. Each such application shall clearly identify the original formula by number, date of approval, and name of product. The application shall indicate whether the product is, has been, or will be used in alcoholic beverages, and shall specify whether the proposed change is intended as a substitution or merely as an alternative for the original formula. No changes may be made to current formulas without specific TTB approval in each case.

[T.D. ATF–179, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 17.123 Statement of process.

Any person claiming drawback under the regulations in this part may be required, at any time, to file a statement of process, in addition to that required by TTB Form 5154.1, as well as any other data necessary for consideration of the claim for drawback. When pertinent to consideration of the claim, submission of copies of the commercial labels used on the finished products may also be required.

### § 17.124 Samples.

Any person claiming drawback or submitting a formula for approval under the regulations in this part may be required, at any time, to submit a sample of each nonbeverage or intermediate product for analysis. If the product is manufactured with a mixture of oil or other ingredients, the composition of which is unknown to the claimant, a 1-ounce sample of the mixture shall be submitted with the sample of finished product when so required.

### § 17.125 Adoption of formulas and processes.

(a) *Adoption of predecessor's formulas.* If there is a change in the proprietorship of a nonbeverage plant and the successor desires to use the predecessor's formulas at the same location, the successor may, in lieu of submitting new formulas in its own name, adopt any or all of the formulas of the predecessor by filing a notice of adoption with the appropriate TTB officer. The notice shall be filed with the first claim relating to any of the adopted formulas. The notice shall list, by name and serial number, all formulas to be adopted, and shall state that the products will be manufactured in accordance with the adopted formulas and processes. The notice shall be accompanied by a certified copy of the articles of incorporation or other document(s) necessary to prove the transfer of ownership. The manufacturer shall retain a copy of the notice with the related formulas.

(b) *Adoption of manufacturer's own formulas from a different location.* A manufacturer's own formulas may be adopted for use at another of the manufacturer's plants. Further, a wholly owned subsidiary may adopt the formulas of the parent company, and vice versa. A letterhead notice must be filed with the appropriate TTB officer and be accompanied by two photocopies of each formula to be adopted. The notice shall list the numbers of all formulas to be adopted and shall indicate the plant where each was originally approved and the plant(s) where each is to be adopted. Some evidence of the relationship between the plants involved in the adoption shall be attached to the notice. The notice shall be referenced in Part IV of the supporting data (TTB Form 5154.2) filed with the first claim relating to the adopted formula(s).

[T.D. ATF–179, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 17.126 Formulas for intermediate products.

(a) The manufacturer shall submit a formula on TTB Form 5154.1 for each

self-manufactured ingredient made with taxpaid spirits and intended for the manufacturer's own use in nonbeverage products, unless the formula for any such ingredient is fully expressed as part of the approved formula for each nonbeverage product in which that ingredient is used, or unless the formula for the ingredient is contained in one of the pharmaceutical publications listed in § 17.132.

(b) Upon receipt of Form 5154.1 covering a self-manufactured ingredient made with taxpaid spirits, the formula shall be examined under § 17.131. If the formula is approved for drawback, the ingredient shall be treated as a finished nonbeverage product for purposes of this part, rather than as an intermediate product, notwithstanding its use by the manufacturer. (For example, see § 17.152(d).) If the formula is disapproved for drawback, the ingredient may be treated as an intermediate product in accordance with this part. Requirements pertaining to intermediate products are found in § 17.185(b).

(c) If there is a change in the composition of an intermediate product, the manufacturer shall submit an amended or revised formula, as provided in § 17.122.

### § 17.127 Self-manufactured ingredients treated optionally as unfinished nonbeverage products.

A self-manufactured ingredient made with taxpaid spirits, which otherwise would be treated as an intermediate product, may instead be treated as an unfinished nonbeverage product, if the ingredient's formula is fully expressed as a part of the approved formula for the nonbeverage product in which the ingredient will be used. A manufacturer desiring to change the treatment of an ingredient from ''intermediate product'' to ''unfinished nonbeverage product'' (or vice versa) may do so by resubmitting the applicable formula(s) on TTB Form 5154.1. Requirements pertaining to unfinished nonbeverage products are found in § 17.185(c).

## APPROVAL OF FORMULAS

### § 17.131 Formulas on TTB Form 5154.1.

Upon receipt, formulas on TTB Form 5154.1 shall be examined and, if found to be medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume which are unfit for beverage purposes and which otherwise meet the requirements of law and this part, they shall be approved for drawback. If the formulas do not meet the requirements of the law and regulations for drawback products, they shall be disapproved.

### § 17.132 U.S.P., N.F., and H.P.U.S. preparations.

(a) *General.* Except as otherwise provided by paragraph (b) of this section or by TTB ruling, formulas for compounds in which alcohol is a prescribed quantitative ingredient, which are stated in the current revisions or editions of the United States Pharmacopoeia (U.S.P.), the National Formulary (N.F.), or the Homeopathic Pharmacopoeia of the United States (H.P.U.S.), shall be considered as approved formulas and may be used as formulas for drawback products without the filing of TTB Form 5154.1.

(b) *Exceptions.* Alcohol (including dehydrated alcohol and dehydrated alcohol injection), U.S.P.; alcohol and dextrose injection, U.S.P.; and tincture of ginger, H.P.U.S., have been found to be fit for beverage use and are disapproved for drawback. All attenuations of other H.P.U.S. products diluted beyond one part in 10,000 (''4×'') are also disapproved for drawback, unless the manufacturer receives approval for a formula submitted on Form 5154.1 in accordance with this subpart. The formula for such attenuations shall be submitted with a sample of the product and a statement explaining why it should be classified as unfit for beverage use.

### § 17.133 Food product formulas.

Formulas for nonbeverage food products on TTB Form 5154.1 may be approved if they are unfit for beverage purposes. Approval does not authorize manufacture or sale contrary to State law. Examples of food products that

have been found to be unfit for beverage purposes are stated below:

(a) *Sauces or syrups.* Sauces, or syrups consisting of sugar solutions and distilled spirits, in which the alcohol content is not more than 12 percent by volume and the sugar content is not less than 60 grams per 100 cubic centimeters.

(b) *Brandied fruits.* Brandied fruits consisting of solidly packaged fruits, either whole or segmented, and distilled spirits products not exceeding the quantity and alcohol content necessary for flavoring and preserving. Generally, brandied fruits will be considered to have met these standards if the container is well filled, the alcohol in the liquid portion does not exceed 23 percent by volume, and the liquid portion does not exceed 45 percent of the volume of the container.

(c) *Candies.* Candies with alcoholic fillings, if the fillings meet the standards prescribed for sauces and syrups by paragraph (a) of this section.

(d) *Other food products.* Food products such as mincemeat, plum pudding, and fruit cake, where only sufficient distilled spirits are used for flavoring and preserving; and ice cream and ices where only sufficient spirits are used for flavoring purposes. Also food adjuncts, such as preservatives, emulsifying agents, and food colorings, that are unfit for beverage purposes and are manufactured and used, or sold for use, in food.

### § 17.134 Determination of unfitness for beverage purposes.

The appropriate TTB officer has responsibility for determining whether products are fit or unfit for beverage purposes within the meaning of 26 U.S.C. 5131. This determination may be based either on the content and description of the ingredients as shown on TTB Form 5154.1, or on organoleptic examination. In such examination, samples of products may be diluted with water to an alcoholic concentration of 15% and tasted. Sale or use for beverage purposes is indicative of fitness for beverage use.

### § 17.135 Use of specially denatured alcohol (S.D.A.).

(a) *Use of S.D.A. in nonbeverage or intermediate products*—(1) *General.* Except as provided in paragraph (b) of this section, the use of specially denatured alcohol (S.D.A.) and taxpaid spirits in the same product by a nonbeverage manufacturer is prohibited where drawback of tax is claimed.

(2) *Alternative formulations.* No formula for a product on TTB Form 5154.1 shall be approved for drawback under this subpart if the manufacturer also has on file an approved TTB Form 1479–A or Form 5150.19, Formula for Article Made With Specially Denatured Alcohol or Rum, pertaining to the same product.

(b) *Use of S.D.A. in ingredients*—(1) *Purchased ingredients.* Generally, purchased ingredients containing S.D.A. may be used in nonbeverage or intermediate products. However, such ingredients shall not be used in medicinal preparations or flavoring extracts intended for internal human use, where any of the S.D.A. remains in the finished product.

(2) *Self-manufactured ingredients.* Self-manufactured ingredients may be made with S.D.A. and used in nonbeverage or intermediate products, provided—

(i) No taxpaid spirits are used in manufacturing such ingredients; and

(ii) All S.D.A. is recovered or dissipated from such ingredients prior to their use in nonbeverage or intermediate products. (Recovery of S.D.A. shall be in accordance with subpart K of part 20 of this chapter; recovered S.D.A., with or without its original denaturants, shall not be reused in nonbeverage or intermediate products.)

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

### § 17.136 Compliance with Food and Drug Administration requirements.

A product is not a medicine, medicinal preparation, food product, flavor, flavoring extract, or perfume for nonbeverage drawback if its formula would violate a ban or restriction of the U.S. Food and Drug Administration (FDA) pertaining to such products. If FDA bans or restricts the use of any ingredient in such a way that further manufacture of a product in accordance with

its formula would violate the ban or restriction, then the manufacturer shall change the formula and resubmit it on TTB Form 5154.1 . This section does not preclude approval for products manufactured solely for export or for uses other than internal human consumption (e.g. tobacco flavors or animal feed flavors) in accordance with laws and regulations administered by FDA. Under § 17.123, manufacturers may be required to demonstrate compliance with FDA requirements applicable to this section.

### § 17.137 Formulas disapproved for drawback.

A formula may be disapproved for drawback either because it does not prescribe appropriate ingredients in sufficient quantities to make the product unfit for beverage use, or because the product is neither a medicine, a medicinal preparation, a food product, a flavor, nor a flavoring extract. The formula for a disapproved product may be used as an intermediate product formula under § 17.126. No drawback will be allowed on distilled spirits used in a disapproved product, unless that product is later used in the manufacture of an approved nonbeverage product. In the case of a product that is disapproved because it is fit for beverage use, any further use or disposition of such a product, other than as an intermediate product in accordance with this part, subjects the manufacturer to the qualification requirements of parts 1 and 19 of this chapter.

## Subpart G—Claims for Drawback

### § 17.141 Drawback.

Upon the filing of a claim as provided in this subpart, drawback shall be allowed to any person who meets the requirements of this part. Drawback shall be paid at the rate specified by 26 U.S.C. 5134 on each proof gallon of distilled spirits on which the tax has been paid or determined and which have been used in the manufacture of nonbeverage products. The drawback rate is $1.00 less than the effective tax rate. Drawback shall be allowed only to the extent that the claimant can establish, by evidence satisfactory to the appropriate TTB, the actual quantity of tax-paid or tax-determined distilled spirits used in the manufacture of the product, and the effective tax rate applicable to those spirits. Special tax as a manufacturer of nonbeverage products shall be paid before drawback is allowed.

### § 17.142 Claims.

(a) *General.* The manufacturer must file claim for drawback with the appropriate TTB officer who has the authority to approve or disapprove claims. A separate claim shall be filed for each place of business. Each claim shall pertain only to distilled spirits used in the manufacture or production of nonbeverage products during any one quarter of the tax year. Unless the manufacturer is eligible to file monthly claims (see §§ 17.143 and 17.144), only one claim per quarter may be filed for each place of business. Claims shall be filed on TTB Form 2635 (5620.8), Claim—Alcohol and Tobacco Taxes.

(b) *Manufacturers who are also proprietors of distilled spirits plants.* If a manufacturer of nonbeverage products is owned and operated by the same business entity that owns and operates a distilled spirits plant, the manufacturer's claim for drawback may be filed for credit on Form 2635 (5620.8). After the claim is approved, the distilled spirits plant may use the claim as an adjustment decreasing the taxes due in Schedule B of TTB Form 5000.24, Excise Tax Return. Adjustments resulting from an approved drawback claim are not subject to interest. This procedure may be utilized only if the manufacturer of nonbeverage products and the distilled spirits plant have the same employer identification number.

[T.D. ATF–179, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 17.143 Notice for monthly claims.

If the manufacturer has notified the appropriate TTB officer, in writing, of an intention to file claims on a monthly basis instead of a quarterly basis, and has filed a bond in compliance with the provisions of this part, claims may be filed monthly instead of quarterly. The election to file monthly claims shall not preclude a manufacturer from filing a single claim covering an entire

quarter, or a single claim covering just two months of a quarter, or two claims (one of them covering one month and the other covering two months). An election for the filing of monthly claims may be withdrawn by the manufacturer by filing a notice to that effect, in writing, with the appropriate TTB officer.

### § 17.144 Bond for monthly claims.

Each person intending to file claims for drawback on a monthly basis shall file an executed bond on TTB Form 5154.3, conforming to the provisions of subpart E of this part. A monthly drawback claim shall not be allowed until bond coverage in a sufficient amount has been approved by the appropriate TTB officer. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount is furnished.

### § 17.145 Date of filing claim.

Quarterly claims for drawback shall be filed within six months after the quarter in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products. Monthly claims for drawback may be filed at any time after the end of the month in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products, but shall be filed not later than the close of the sixth month succeeding the quarter in which the spirits were used.

### § 17.146 Information to be shown by the claim.

The claim shall set forth the following:

(a) Whether the special tax has been paid.

(b) That the distilled spirits on which drawback is claimed were fully taxpaid or tax-determined at the effective tax rate applicable to the distilled spirits.

(c) That the distilled spirits on which the drawback is claimed were used in the manufacture of nonbeverage products.

(d) Whether the nonbeverage products were manufactured in compliance with quantitative formulas approved under subpart F of this part. (If not, attach explanation.)

(e) That the data submitted in support of the claim are correct.

### § 17.147 Supporting data.

(a) Each claim for drawback shall be accompanied by supporting data presented according to the format shown on TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims (or according to any other suitable format which provides the same information). Modifications of Form 5154.2 may be used without prior authorization, if the modified format clearly shows all of the required information that is pertinent to the manufacturing operation. Under § 17.123, the appropriate TTB officer may require additional supporting data when needed to determine the correctness of drawback claims.

(b) Separate data shall be shown for eligible distilled spirits taxpaid at different effective tax rates. This requirement applies to all eligible spirits, including eligible recovered alcohol and eligible spirits contained in intermediate products.

(c) Separate data shall be shown for imported rum, spirits from Puerto Rico containing at least 92% rum, and spirits from the U.S. Virgin Islands containing at least 92% rum. The total number of proof gallons of each such category used subject to drawback during the claim period shall also be shown, with separate totals for each effective tax rate. These amounts shall include eligible spirits and rum from intermediate products or recovered alcohol.

(d) Any gain in eligible distilled spirits reported in the supporting data shall be reflected by an equivalent deduction from the amount of drawback claimed. Gains shall not be offset by known losses.

### § 17.148 Allowance of claims.

(a) *General.* Except in the case of fraudulent noncompliance, no claim for drawback shall be denied for a failure to comply with either 26 U.S.C. 5131–5134 or the requirements of this part, if the claimant establishes that spirits on

which the tax has been paid or determined were in fact used in the manufacture of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for beverage purposes.

(b) *Penalty.* Noncompliance with the requirements of 26 U.S.C. 5131–5134 or of this part subjects the claimant to a civil penalty of $1,000 for each separate product, reflected in a claim for drawback, to which the noncompliance relates, or the amount claimed for that product, whichever is less, unless the claimant establishes that the noncompliance was due to reasonable cause. Late filing of a claim subjects the claimant to a civil penalty of $1,000 or the amount of the claim, whichever is less, unless the claimant establishes that the lateness was due to reasonable cause.

(c) *Reasonable cause.* Reasonable cause exists where a claimant establishes it exercised ordinary business care and prudence, and still was unable to comply with the statutory and regulatory requirements. Ignorance of law or regulations, in and of itself, is not reasonable cause. Each case is individually evaluated.

(Sec. 452, Pub. L. 98–369, 98 Stat. 819 (26 U.S.C. 5134(c))

SPIRITS SUBJECT TO DRAWBACK

### § 17.151 Use of distilled spirits.

Distilled spirits are considered to have been used in the manufacture of a product under this part if the spirits are consumed in the manufacture, are incorporated into the product, or are determined by TTB to have been otherwise utilized as an essential part of the manufacturing process. However, spirits lost by causes such as spillage, leakage, breakage or theft, and spirits used for purposes such as rinsing or cleaning a system, are not considered to have been used in the manufacture of a product.

### § 17.152 Time of use of spirits.

(a) *General.* Distilled spirits shall be considered used in the manufacture of a product as soon as that product contains all the ingredients called for by its formula.

(b) *Spirits used in an ion exchange column.* Distilled spirits used in recharging an ion exchange column, the operation of which is essential to the production of a product, shall be considered to be used when the spirits are entered into the manufacturing system in accordance with the product's formula.

(c) *Products requiring additional processing or treatment.* Further manipulation of a product, such as aging or filtering, subsequent to the mixing together of all of its ingredients, shall not postpone the time when spirits are considered used, as determined under paragraph (a) of this section. This is true even if at the time of use there has not yet been a final determination of alcoholic content by assay. If, however, it is later found necessary to add more distilled spirits to standardize the product, such added spirits shall be considered as used in the period during which they were added.

(d) *Nonbeverage products used to manufacture other products.* Nonbeverage products may be used to manufacture other nonbeverage (or intermediate) products. However, such subsequent usage of a nonbeverage product shall not affect the time when the distilled spirits contained therein are considered used. When distilled spirits are used in the manufacture of a nonbeverage product, the time of use shall be the point at which that product first contains all of its prescribed ingredients, and such use shall not be determined by the time of any subsequent usage of that product in another product.

### § 17.153 Recovered spirits.

(a) *Recovery from intermediate products.* Eligible spirits recovered in the manufacture of intermediate products are not subject to drawback until such recovered spirits are used in the manufacture of a nonbeverage product. (However, see § 17.127 with respect to optional treatment of ingredients as unfinished nonbeverage products, rather than as intermediate products.) Spirits recovered in the manufacture of intermediate products shall be reused only in the manufacture of intermediate or nonbeverage products.

(b) *Recovery from nonbeverage products.* Distilled spirits recovered in the manufacture of a nonbeverage product are considered as having been used in the manufacture of that product. If the spirits were eligible when so used, they became subject to drawback at that time. Upon recovery, such spirits may be reused in the manufacture of nonbeverage products, but shall not be reused for any other purpose. When reused, such recovered spirits are not again eligible for drawback and shall not be used in the manufacture of intermediate products.

(c) *Cross references.* For additional provisions respecting the recovery of distilled spirits and related recordkeeping requirements, see §§ 17.168 and 17.183.

### § 17.154 Spirits contained in intermediate products.

Spirits contained in an intermediate product are not subject to drawback until that intermediate product is used in the manufacture of a nonbeverage product.

### § 17.155 Spirits consumed in manufacturing intermediate products.

Spirits consumed in the manufacture of an intermediate product—which are not contained in the intermediate product at the time of its use in nonbeverage products—are not subject to drawback. Such spirits are not considered to have been used in the manufacture of nonbeverage products. However, see § 17.127 with respect to optional treatment of ingredients as unfinished nonbeverage products, rather than as intermediate products.

## Subpart H—Records

### § 17.161 General.

Each person claiming drawback on taxpaid distilled spirits used in the manufacture of nonbeverage products shall maintain records showing the information required in this subpart. No particular form is prescribed for these records, but the data required to be shown shall be clearly recorded and organized to enable appropriate TTB officers to trace each operation or transaction, monitor compliance with law and regulations, and verify the accuracy of each claim. Ordinary business records, including invoices and cost accounting records, are acceptable if they show the required information or are annotated to show any such information that is lacking. The records shall be kept complete and current at all times, and shall be retained by the manufacturer at the place covered by the special tax stamp for the period prescribed in § 17.170.

### § 17.162 Receipt of distilled spirits.

(a) *Distilled spirits received in tank cars, tank trucks, barrels, or drums.* For distilled spirits received in tank cars, tank trucks, barrels, or drums, the manufacturer shall record, with respect to each shipment received—

(1) The date of receipt;

(2) The name and address of the person from whom received;

(3) The serial number or other identification mark (if any) of each tank car, tank truck, barrel, or drum;

(4) The name of the producer or warehouseman who paid or determined the tax;

(5) The effective tax rate (if other than the rate prescribed by 26 U.S.C. 5001); and

(6) The kind, quantity, and proof (or alcohol percentage by volume) of the spirits.

(b) *Distilled spirits received in bottles.* For distilled spirits received in bottles, the manufacturer shall record—

(1) The date of receipt;

(2) The name and address of the seller;

(3) The serial number of each case, if the bottles are received in cases;

(4) The name of the bottler;

(5) The effective tax rate (if other than the rate prescribed by 26 U.S.C. 5001); and

(6) The kind, quantity, and proof (or alcohol percentage by volume) of the spirits.

(c) *Distilled spirits received by pipeline.* For distilled spirits received by pipeline, the manufacturer shall record—

(1) The date of receipt;

(2) The name of the producer or warehouseman who paid or determined the tax;

(3) The effective tax rate (if other than the rate prescribed by 26 U.S.C. 5001); and

(4) The kind, quantity, and proof (or alcohol percentage by volume) of the spirits.

(d) *Determination of quantity.* At the time of receipt, each manufacturer shall determine (preferably by weight) and record the exact number of proof gallons of distilled spirits received. The amount received in bottles may be determined by the required statements on the labels. The amount received in sealed drums with no evidence of leakage may be determined from the record of shipment, which is required by § 19.780 of this chapter to accompany spirits received from a distilled spirits plant. If spirits are received in a tank car or tank truck, and the result of the manufacturer's gauge of the spirits is within 0.2 percent of the number of proof gallons reported on the record of shipment required by § 19.780, then the number of proof gallons reported on that record may be recorded as the quantity received. Nevertheless, the receiving gauge shall be noted on the record of receipt. If, for any shipment, the amount recorded in the manufacturer's records as the quantity received is greater than the amount shown as taxpaid on the record required by § 19.780, a deduction equivalent to the excess shall be made from the amount of drawback claimed in the manufacturer's claim covering that period. If no claim is filed for that period, then the deduction shall be made in the manufacturer's next claim. Losses in transit that exceed the 0.2 percent limitation provided in this paragraph shall be determined and noted on the record of receipt. Such losses shall not be recorded as distilled spirits received.

(e) *Receipt of imported rum, or spirits from Puerto Rico or the Virgin Islands.* If spirits are received which contain at least 92% rum, and which originate from Puerto Rico or the U.S. Virgin Islands, the record of receipt shall indicate the place of origin. If rum is received, the record shall indicate whether it is from Puerto Rico, from the U.S. Virgin Islands, imported from other countries, or domestic.

(f) *Shipments from distilled spirits plants.* If spirits are received directly from the distilled spirits plant that paid or determined the tax, the manufacturer shall retain the record of shipment required by § 19.780 of this chapter. To the extent that the information on that record duplicates the requirements of this section, retention of that record shall satisfy those requirements. If there are differences between the information on the record of shipment and the information required to be recorded by this section, the requirements of this section may be met by appropriate annotations on the record of shipment.

### § 17.163 Evidence of taxpayment of distilled spirits.

(a) *Shipments from distilled spirits plants.* For each shipment of taxpaid spirits from the bonded premises of a distilled spirits plant, the manufacturer shall obtain the record of shipment prepared by the supplier under § 19.780 of this chapter. This record shall be retained with the commercial invoice (if the latter is a separate document) as evidence of taxpayment of the spirits. The record shall show the effective tax rate(s) (if other than the rate prescribed by 26 U.S.C. 5001) applicable to the shipment.

(b) *Purchases from wholesale and retail liquor dealers.* Manufacturers shall obtain commercial invoices or other documentation pertaining to purchases of distilled spirits from wholesale and retail liquor dealers (including such dealership operations when conducted in conjunction with a distilled spirits plant). For spirits other than alcohol, grain spirits, neutral spirits, distilled gin, or straight whisky (as defined in the standards of identity prescribed by § 5.22 of this chapter), the manufacturer of nonbeverage products shall obtain evidence, from the producer or bottler of the spirits, as to the effective tax rate paid thereon.

(c) *Imported spirits.* For imported spirits that were taxpaid through Customs, evidence of such taxpayment (such as Customs Forms 7501 and 7505, receipted to indicate payment of tax, and the certificate of effective tax rate computation, if applicable) shall be secured from the importer and retained by the manufacturer.

(d) *Evidence of effective tax rate.* If the evidence of effective tax rate, required by this section for distilled spirits

products that may contain wine or flavors, is not obtained, drawback shall only be allowed based on the lowest effective tax rate possible for the kind of distilled spirits product used.

### § 17.164 Production record.

(a) *General.* Each manufacturer shall keep a production record for each batch of intermediate product and for each batch of nonbeverage product. The production record shall be an original record made at the time of production by a person (or persons) having actual knowledge thereof. If any product is produced by a continuous process rather than by batches, the production record shall pertain to the total quantity of that product produced during each claim period.

(b) *Information to be shown.* The record shall show the name and formula number of the product, the actual quantities of all ingredients used in the manufacture of the batch (including the proof or alcohol percentage by volume of all spirits), the date when eligible spirits were considered used (see § 17.152), the effective tax rate applicable to those spirits (if other than the rate prescribed by 26 U.S.C. 5001), and the quantity of product produced. The alcohol content of the product shall be shown if a test of alcohol content was made (see paragraph (e) of this section). Usage of eligible and ineligible spirits shall be shown separately. If spirits from Puerto Rico or the U.S. Virgin Islands, containing at least 92% rum, were used, the record shall indicate their place of origin. If rum was used, the record shall indicate whether it was from Puerto Rico, from the U.S. Virgin Islands, imported from other countries, or domestic. If spirits were recovered, the production record shall so indicate, and the record required by § 17.168 shall be kept. If drawback is claimed on spirits consumed as an essential part of the manufacture of a nonbeverage product, which were not contained in that product at its completion, then the production record shall show the quantity of spirits so consumed in the manufacture of each batch.

(c) *Specificity of information.* The production record shall refer to ingredients by the same names as are used for them in the product's formula. This includes formulas submitted to TTB and formulas contained in the publications listed in § 17.132. Other names for the ingredients may be added in the production record, if necessary for the manufacturer's operations. Usage of ingredients (including spirits) may be shown in units of weight or volume.

(d) *Determining quantity of distilled spirits used.* Each manufacturer shall accurately determine, by weight or volume, and record in the production records the quantity of all distilled spirits used. When the quantity used is determined by volume, adjustments shall be made if the temperature of the spirits is above or below 60 degrees Fahrenheit. A table for correction of volume of spirituous liquors to 60 degrees Fahrenheit, Table 7 of the ''Gauging Manual,'' is available. See subpart E of part 30 of this chapter and § 30.67. Losses after receipt due to leakage, spillage, evaporation, or other causes not essential to the manufacturing process shall be accurately recorded in the manufacturer's permanent records at the time such losses are determined.

(e) *Tests of alcohol content.* At representative intervals, the manufacturer shall verify the alcohol content of nonbeverage products. The results of such tests shall be recorded.

### § 17.165 Receipt of raw ingredients.

For raw ingredients destined to be used in nonbeverage or intermediate products, the manufacturer shall record, for each shipment received—

(a) The date of receipt;

(b) The quantity received; and

(c) The identity of the supplier.

### § 17.166 Disposition of nonbeverage products.

(a) *Shipments.* For each shipment of nonbeverage products, the manufacturer shall record—

(1) The formula number of the product;

(2) The date of shipment;

(3) The quantity shipped; and

(4) The identity of the consignee.

(b) *Other disposition.* For other dispositions of nonbeverage products, the manufacturer shall record—

(1) The type of disposition;

(2) The date of disposition; and

(3) The quantity of each product so disposed of.

(c) *Exception.* The manufacturer need not keep the records required by paragraphs (a) and (b) of this section for any nonbeverage product which either contains less than 3 percent of distilled spirits by volume, or is sold by the producer directly to the consumer in retail quantities. However, when needed for protection of the revenue, the appropriate TTB officer may at any time require the keeping of these records upon giving at least five days' notice to the manufacturer.

### § 17.167 Inventories.

(a) *Distilled spirits.* The ''on hand'' figures reported in Part II of TTB Form 5154.2 shall be verified by physical inventories taken as of the end of each quarter in which nonbeverage products were manufactured for purposes of drawback. Spirits taxpaid at different effective tax rates shall be inventoried separately. The inventory record shall show the date inventory was taken, the person(s) by whom it was taken, subtotals for each product inventoried, and any gains or losses disclosed; and shall be retained with the manufacturer's records. The manufacturer shall explain in Part IV of the supporting data (Form 5154.2) any discrepancy between the amounts on hand as disclosed by physical inventory and the amounts indicated by the manufacturer's records. Any gain in eligible spirits disclosed by inventory requires an equivalent deduction from the claim with which the inventory is reported. Gains shall not be offset by known losses. If no claim is filed for a quarter (nor for any monthly period therein), then no physical inventory is required for that quarter.

(b) *Raw ingredients and nonbeverage products.* When necessary for ensuring compliance with regulations and protection of the revenue, the appropriate TTB officer may require a manufacturer to take physical inventories of finished nonbeverage products, and/or raw ingredients intended for use in the manufacture of nonbeverage or intermediate products. The results of such inventories shall be recorded in the manufacturer's records. Any discrepancy between the amounts on hand as disclosed by physical inventory and such amounts as indicated by the manufacturer's records shall also be recorded with an explanation of its cause.

### § 17.168 Recovered spirits.

(a) Each manufacturer intending to recover distilled spirits under the provisions of this part shall first notify the appropriate TTB officer. Any apparatus used to separate alcohol is subject to the registration requirements of 26 U.S.C. 5179 and subpart C of part 29 of this chapter. Recovery operations shall only be conducted on the premises covered by the manufacturer's special tax stamp.

(b) The manufacturer shall keep a record of the distilled spirits recovered and the subsequent use to which such spirits are put. The record shall show—

(1) The date of recovery;

(2) The commodity or process from which the spirits were recovered;

(3) The amount in proof gallons, or by weight and proof (or alcohol percentage by volume) of distilled spirits recovered;

(4) The amount in proof gallons, or by weight and proof (or alcohol percentage by volume) of recovered distilled spirits reused;

(5) The commodity in which the recovered distilled spirits were reused; and

(6) The date of reuse.

(c) Whenever recovered spirits are destroyed (see § 17.183), the record shall further show—

(1) The reason for the destruction;

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

(3) The number of proof gallons destroyed; and

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

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF–462, 66 FR 42736, Aug. 15, 2001]

### § 17.169 Transfer of intermediate products.

When intermediate products are transferred as permitted by § 17.185(b), supporting records of such transfers

shall be kept at the shipping and receiving plants, showing the date and quantity of each product transferred.

### § 17.170 Retention of records.

Each manufacturer shall retain for a period of not less than 3 years all records required by this part, a copy of all claims and supporting data filed in support thereof, all commercial invoices or other documents evidencing taxpayment or tax-determination of domestic spirits, all documents evidencing taxpayment of imported spirits, and all bills of lading received which pertain to shipments of spirits. In addition, a copy of each formula submitted on TTB Form 5154.1 shall be retained at each factory where the formula is used, for not less than 3 years from the date of filing of the last claim for drawback under the formula. A copy of an approval to use an alternate method or procedure shall be retained as long as the manufacturer employs the method or procedure, and for 3 years thereafter. Further, the appropriate TTB officer may require these records, forms, and documents to be retained for an additional period of not more than 3 years in any case where he or she deems such retention to be necessary or advisable for protection of the revenue.

### § 17.171 Inspection of records.

All of the records, forms, and documents required to be retained by § 17.170 shall be kept at the place covered by the special tax stamp and shall be readily available during the manufacturer's regular business hours for examination and copying by appropriate TTB officers. At the same time, any other books, papers, records or memoranda in the possession of the manufacturer, which have a bearing upon the matters required to be alleged in a claim for drawback, shall be available for inspection by appropriate TTB officers.

(Sec. 5133, 68A Stat. 623 (26 U.S.C. 5133); sec. 201, Pub. L. 85–859, 72 Stat. 1348 (26 U.S.C. 5146)).

## Subpart I—Miscellaneous Provisions

### § 17.181 Exportation of medicinal preparations and flavoring extracts.

Medicinal preparations and flavoring extracts, approved for drawback under the provisions of this part, may be exported subject to 19 U.S.C. 1313(d), which authorizes export drawback equal to the entire amount of internal revenue tax found to have been paid on the domestic alcohol used in the manufacture of such products. (Note: Export drawback is not allowed for imported alcohol under this provision of customs law.) Claims for such export drawback shall be filed in accordance with the applicable regulations of the U.S. Customs Service. Such claims may cover either the full rate of tax which has been paid on the alcohol, if no nonbeverage drawback has been claimed thereon, or else the remainder of the tax if nonbeverage drawback under 26 U.S.C. 5134 has been or will be claimed.

### § 17.182 Drawback claims by druggists.

Drawback of tax under 26 U.S.C. 5134 is allowable on taxpaid distilled spirits used in compounding prescriptions by druggists who have paid the special tax prescribed by 26 U.S.C. 5131. The prescriptions so compounded shall be shown in the supporting data by listing the first and last serial numbers thereof. The amount of taxpaid spirits used in each prescription need not be shown, but such prescriptions shall be made available for examination by appropriate TTB officers. If refills have been made of prescriptions received in a previous claim period, their serial numbers shall be recorded separately. Druggists claiming drawback as authorized by this section are subject to all the applicable requirements of this part, except those requiring the filing of quantitative formulas.

### § 17.183 Disposition of recovered alcohol and material from which alcohol can be recovered.

(a) *Recovered alcohol.* Manufacturers of nonbeverage products shall not sell or transfer recovered spirits to any other premises without TTB authorization under § 17.3. If recovered spirits are stored pending reuse, storage facilities

shall be adequate to protect the revenue. If recovered spirits are destroyed, the record required by § 17.168(c) must be kept. Spirits recovered from intermediate products may be destroyed without notice to TTB. Spirits recovered from nonbeverage products may be destroyed pursuant to a notice filed with the appropriate TTB officer at least 12 days prior to the date of destruction. The notice shall state the reason for the destruction, the intended date of destruction, and the approximate quantity involved. The appropriate TTB officer may impose specific conditions, including requiring that the destruction be witnessed by an appropriate TTB. Unless the manufacturer is otherwise advised by the appropriate TTB officer before the date specified in the notice, the destruction may proceed as planned.

(b) *By-product material (general).* By-product material from which alcohol can be recovered shall not be sold or transferred unless the alcohol has been removed or an approved substance has been added to prevent recovery of residual alcohol. Material from which alcohol can be recovered may also be destroyed on the manufacturer's premises by a suitable method. Except as provided in paragraph (c) of this section, prior written approval shall be obtained from the appropriate TTB officer as to the adequacy, under this section, of any substance proposed to be added to prevent recovery of alcohol, or of any proposed method of destruction.

(c) *Spent vanilla beans.* Specific approval from the appropriate TTB officer is not required when spent vanilla beans containing residual alcohol are destroyed on the manufacturer's premises by burning, or when they are removed from those premises after treatment with sufficient kerosene, mineral spirits, rubber hydrocarbon solvent, or gasoline to prevent recovery of residual alcohol.

### § 17.184 Distilled spirits container marks.

All marks required by Part 19 of this chapter shall remain on containers of taxpaid distilled spirits until the contents are emptied. Whenever such a container is emptied, such marks shall be completely obliterated.

(Sec. 454, Pub. L. 98–369, 98 Stat. 820 (26 U.S.C. 5206(d)))

### § 17.185 Requirements for intermediate products and unfinished nonbeverage products.

(a) *General.* Self-manufactured ingredients made with taxpaid spirits may be accounted for either as intermediate products or as unfinished nonbeverage products. The manufacturer may choose either method of accounting for such self-manufactured ingredients (see § 17.127). However, the method selected determines the requirements that will apply to those ingredients, as prescribed in paragraphs (b) and (c) of this section.

(b) *Intermediate products.* Intermediate products shall be used exclusively in the manufacture of nonbeverage products. Intermediate products may be accumulated and stored indefinitely and may be used in any nonbeverage product whose formula calls for such use. Intermediate products shall be manufactured by the same entity that manufactures the finished nonbeverage products. Intermediate products shall not be sold or transferred between separate and distinct entities. However, they may be transferred to another branch or plant of the same manufacturer, for use there in the manufacture of approved nonbeverage products. (See § 17.169 for recordkeeping requirement.) For the purposes of this section, the phrase ''separate and distinct entities'' includes parent and subsidiary corporations, regardless of any corporate (or other) relationship, and even if the stock of both the manufacturing firm and the receiving firm is owned by the same persons.

(c) *Unfinished nonbeverage products.* An unfinished nonbeverage product shall only be used in the particular nonbeverage product for which it was manufactured, and shall be entirely so used within the time limit stated in the approved TTB Form 5154.1. Spirits dissipated or recovered in the manufacture of unfinished nonbeverage products shall be regarded as having been dissipated or recovered in the manufacture of nonbeverage products. Spirits contained in such unfinished products

shall be accounted for in the supporting data under § 17.147 and inventoried under § 17.167 as ''in process'' in nonbeverage products. Production of unfinished nonbeverage products shall be recorded as an integral part of the production records for the related nonbeverage products. Unfinished nonbeverage products shall not be transferred to other premises.

### § 17.186 Transfer of distilled spirits to other containers.

A manufacturer may transfer taxpaid distilled spirits from the original package to other containers at any time for the purpose of facilitating the manufacture of products unfit for beverage use. Containers into which distilled spirits have been transferred under this section shall bear a label identifying their contents as taxpaid distilled spirits, and shall be marked with the serial number of the original package from which the spirits were withdrawn.

### § 17.187 Discontinuance of business.

The manufacturer shall notify TTB when business is to be discontinued. Upon discontinuance of business, a manufacturer's entire stock of taxpaid distilled spirits on hand may be sold in a single sale without the necessity of qualifying as a wholesaler under part 1 of this chapter or paying special tax as a liquor dealer under part 31 of this chapter. The spirits likewise may be returned to the person from whom purchased, or they may be destroyed or given away.

[T.D. ATF–379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB–25, 70 FR 19882, Apr. 15, 2005]

# PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

## Subpart A—Scope

Sec.
18.1 Scope.
18.2 Applicability of law.
18.3 Unlawful operations.

## Subpart B—Definitions

18.11 Meaning of terms.

## Subpart C—Administrative and Miscellaneous Provisions

18.12 Delegations of the Administrator.
18.13 Alternate methods or procedures.
18.14 Emergency variations from requirements.
18.15 Right of entry and examination.
18.16 Forms prescribed.

DOCUMENT REQUIREMENTS

18.17 Retention of documents.
18.18 Execution under penalties of perjury.
18.19 Security.

## Subpart D—Qualification

18.21 General.
18.22 Restrictions as to location and use.
18.23 Registry of stills.

APPLICATION

18.24 Data for application.
18.25 Organizational documents.
18.26 Powers of attorney.
18.27 Additional requirements.

CHANGES AFTER ORIGINAL ESTABLISHMENT

18.31 General requirements.
18.32 Change in name.
18.33 Change in location.
18.34 Continuing partnerships.
18.35 Change in proprietorship.
18.36 Change in officers and directors.
18.37 Change in stockholders.
18.38 Permanent discontinuance.
18.39 Qualification to alternate a volatile fruit-flavor concentrate plant and a distilled spirits plant.
18.40 Qualification to alternate volatile fruit-flavor concentrate plant and bonded wine cellar.
18.41 Separation of premises.
18.42 Record of alternation.
18.43 Conditions of alternation.

## Subpart E—Operations

18.51 Processing material.
18.52 Production of high-proof concentrate.
18.53 Use of concentrate.
18.54 Transfer of concentrate.
18.55 Label.
18.56 Receipt of concentrate.

## Subpart F—Records and Reports

18.61 Records and reports.
18.62 Record of transfer.
18.63 Record of transfer to a bonded wine cellar.
18.64 Photographic copies of records.
18.65 Annual report.

AUTHORITY: 26 U.S.C. 5001, 5171–5173, 5178, 5179, 5203, 5351, 5354, 5356, 5511, 5552, 6065, 7805.

SOURCE: T.D. ATF–104, 47 FR 23921, June 2, 1982, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 18 appear by T.D. ATF–436, 66 FR 5471, 5472, Jan. 19, 2001.

## Subpart A—Scope

### § 18.1 Scope.

The regulations in this part relate to the qualification and operation (including activities incident thereto) of plants for the manufacture of volatile fruit-flavor concentrate (essence). The regulations in this part apply to the several States of the United States and the District of Columbia.

### § 18.2 Applicability of law.

Except as specified in 26 U.S.C. 5511, the provisions of 26 U.S.C. Chapter 51 are not applicable to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if:

(a) The concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of the concentrate; and

(b) The concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of concentrate which does not exceed 24 percent alcohol by volume) the concentrate is transferred to a bonded wine cellar for use in the production of natural wine; and

(c) The manufacturer of concentrate complies with all requirements for the protection of the revenue with respect to the production, removal, sale, transportation, and use of concentrate, and of the mash or juice from which it is produced, as may be prescribed by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

### § 18.3 Unlawful operations.

(a) A manufacturer of concentrate who violates any of the conditions stated in § 18.2 is subject to the taxes and penalties otherwise applicable under 26 U.S.C. Chapter 51 in respect to such operations.

(b) Any person who sells, transports, or uses any concentrate or the mash or juice from which it is produced in violation of law or regulations is subject to all the provisions of 26 U.S.C. Chapter 51 pertaining to distilled spirits and wines, including those requiring the payment of the tax thereon.

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

## Subpart B—Definitions

### § 18.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.18, Delegation of the Administrator's Authorities in 27 CFR Part 18, Production of Volatile Fruit-Flavor Concentrate.

*Bonded wine cellar.* Premises established under 27 CFR part 24 for the production, blending, cellar treatment, storage, bottling, or packaging of untaxpaid wine, and includes premises designated as ''bonded winery.''

*Concentrate.* Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporations from any fruit mash or juice.

*Concentrate plant.* An establishment qualified under this part for the production of concentrate.

*Distilled spirits plant.* An establishment qualified under 27 CFR part 19, excluding alcohol fuel plants, for producing, warehousing, or processing distilled spirits (including denatured distilled spirits).

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, 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 application or report), 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.''

*Fold.* The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from the fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

*Fruit.* All products commonly known and classified as fruit, berries, or grapes.

*Fruit mash.* Any unfermented mixture of juice, pulp, skins, and seeds prepared from fruit, berries, or grapes.

*High-proof concentrate.* For the purposes of this part, ''high-proof concentrate'' means a concentrate (essence), as defined in this section, that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural constituents, i.e. without the addition of other substances.

*Juice.* The unfermented juice (concentrated or unconcentrated) of fruit, berries, or grapes, exclusive of pulp, skins, or seeds.

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

*Processing material.* The fruit mash or juice from which concentrate is produced.

*Proprietor.* A person qualified under this part to operate a concentrate plant.

*Registry number.* The number assigned to a concentrate plant or a bonded wine cellar for an approved application as required by Parts 18 and 24, respectively.

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

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–299, 55 FR 24989, June 19, 1990; T.D. ATF–436, 66 FR 5471, Jan. 19, 2001; T.D. ATF–455, 66 FR 29482, May 31, 2001; T.D. TTB–44, 71 FR 16927, Apr. 4, 2006]

## Subpart C—Administrative and Miscellaneous Provisions

### § 18.12 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.18, Delegation of the Administrator's Authorities in 27 CFR Part 18, Production of a Volatile Fruit-Flavor Concentrate. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16927, Apr. 4, 2006]

### § 18.13 Alternate methods or procedures.

(a) *General.* The proprietor, on specific approval by the appropriate TTB officer, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when he finds that:

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

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

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

(b) *Application.* A proprietor who desires to employ an alternate method or procedure shall submit a written application to the appropriate TTB officer.

The application will specifically describe the proposed alternate method or procedure and set forth the reasons therefor. Alternate methods or procedures may not be employed until the application has been approved by the appropriate TTB officer. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996; T.D. ATF–436, 66 FR 5471, Jan. 19, 2001]

### § 18.14 Emergency variations from requirements.

(a) *General.* The appropriate TTB officer may approve emergency variations from requirements specified in this part, where the appropriate TTB officer finds that an emergency exists, the proposed variations are necessary, and the proposed variations:

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

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

(3) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations stated in the approval of the application. Failure to comply in good faith with such procedures, conditions and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation.

(b) *Application.* A proprietor who desires to employ emergency variations shall submit a written application to the appropriate TTB officer. The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when an emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the appropriate TTB officer via telephone.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.15 Right of entry and examination.

Appropriate TTB officers may at all times, as well by night as by day, enter any concentrate plant to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as they deem necessary. Whenever appropriate TTB officers, having demanded admittance and declared their name and office, are not admitted into such premises by the proprietor or other person having charge thereof, they may at all times use such force as is necessary for them to gain entry to such premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1357, as amended, 1392, as amended (26 U.S.C. 5203, 5511))

### § 18.16 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form will 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 will be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National

Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–249, 52 FR 5960, Feb. 27, 1987; T.D. 372, 61 FR 20723, May 8, 1996; T.D. ATF–436, 66 FR 5472, Jan. 19, 2001; T.D. TTB–44, 71 FR 16927, Apr. 4, 2006]

DOCUMENT REQUIREMENTS

### § 18.17 Retention of documents.

The proprietor shall maintain a file of all approved applications and other documents, on or convenient to the concentrate plant premises, available for inspection by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.18 Execution under penalties of perjury.

When a form or other document called for under this part is required to be executed under penalties of perjury, it will be so executed, as defined in § 18.11, and signed by an authorized person.

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

### § 18.19 Security.

The concentrate plant and equipment will be so constructed, arranged, equipped, and protected as to afford adequate protection to the revenue and facilitate inspection by appropriate TTB officers.

## Subpart D—Qualification

### § 18.21 General.

A person who desires to engage in the business of manufacturing concentrate shall submit an application for registration on Form 27–G (5520.3) and receive approval as provided in this part. All written statements, affidavits, and other documents submitted in support of the application or incorporated by reference are deemed a part thereof.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.22 Restrictions as to location and use.

(a) *Restrictions.* A concentrate plant may not be established in any dwelling house or on board any vessel or boat, or on any premises where any other business is conducted. The premises of a concentrate plant may be used only for the business stated in the approved application for registration.

(b) *Exceptions.* The appropriate TTB officer may authorize (1) the establishment of a concentrate plant on premise where other business is conducted, or (2) the use of the premises of a concentrate plant for other business. A person or proprietor desiring such authorization shall submit a written application to the appropriate TTB officer. The application will describe the other business by type and the premises to be used. If the premises of a concentrate plant are to be used for other business, the relationship (if any) to the concentrate plant will be described in the application. A concentrate plant may not be established on premises where other business is conducted or used to conduct other business until the application is approved. The appropriate TTB officer may decline to approve the application or withdraw the authorization if the revenue is jeopardized or the effective administration of this part is hindered.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.23 Registry of stills.

The provisions of subpart C of part 29 of this chapter are applicable to stills or distilling apparatus located on concentrate plant premises used for the production of concentrate. As provided under § 29.55, the listing of a still in the

application, and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended, 1392, as amended (26 U.S.C. 5179, 5511))

[T.D. ATF–207, 50 FR 23681, June 5, 1985, as amended by T.D. ATF–462, 66 FR 42736, Aug. 15, 2001]

APPLICATION

### § 18.24 Data for application.

Applications on Form 27–G (5520.3) will include the following:

(a) Serial number;

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

(c) Purpose for which filed;

(d) Information regarding proprietorship, supported by the organizational documents listed in § 18.25; and

(e) Description of each still and a statement of its maximum capacity.

Where any of the information required by this section is on file with the appropriate TTB officer, that information, if accurate and complete, may be incorporated by reference by the applicant and made a part of the application.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.25 Organizational documents.

The supporting information required by paragraph (d) of § 18.24 includes, as applicable:

(a) Extracts from the articles of incorporation or from the minutes of meetings of the board of directors, authorizing the incumbents of certain offices, or other persons, to sign for the corporation;

(b) Names and addresses of the officers and directors (Do not list officers and directors who have no responsibility in connection with the operation of the concentrate plant.);

(c) Names and addresses of the 10 persons having the largest ownership or other interest in the corporation or other entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him; and

(d) In the case of an individual owner or a partnership, the name and address of every person interested in the concentrate plant, whether the interest appears in the name of the interested party or in the name of another for him.

### § 18.26 Powers of attorney.

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

(Approved by the Office of Management and Budget under control number 1512–0079)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.27 Additional requirements.

(a) The appropriate TTB officer, to protect the revenue, may require:

(1) Additional information in support of an application for registration;

(2) Marks on major equipment to show serial number, capacity, and use;

(3) Installation of meters, tanks, pipes, or other apparatus; and

(4) Installation of security devices.

(b) Any proprietor refusing or neglecting to comply with any requirement of this section shall not be permitted to operate.

(Approved by the Office of Management and Budget under control number 1512–0046)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended, 1395, as amended (26 U.S.C. 5172, 5178, 5552))

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

CHANGES AFTER ORIGINAL ESTABLISHMENT

### § 18.31 General requirements.

Where there is a change with respect to the information shown in the application, the proprietor shall submit, within 30 days of the change (except as otherwise provided in this part), an

amended application on Form 27–G (5520.3).

(Approved by the Office of Management and Budget under control number 1512–0046)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.32 Change in name.

The proprietor shall submit an amended application to cover any change in the individual, firm, or corporate name.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.33 Change in location.

The proprietor shall submit an amended application to cover a change in the location of a concentrate plant. Operation of the concentrate plant may not be commenced at the new location prior to approval of the amended application.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.34 Continuing partnerships.

If, under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. If the surviving partner acquires the business on completion of the settlement of the partnership, such partner shall qualify in his own name form the date of acquisition, as provided in § 18.35. The rule set forth in this section also applies where there is more than one surviving partner.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.35 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a concentrate plant, the outgoing proprietor shall comply with the requirements of § 18.38, and the successor shall, before commencing operations, file application and receive approval in the same manner as a person qualifying as the proprietor of a new concentrate plant. Processing material, concentrate and other materials may be transferred from an outgoing proprietor to a successor.

(b) *Fiduciary.* A successor to the proprietorship of a concentrate plant who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall comply with the provisions of paragraph (a) of this section. If the fiduciary was appointed by a court, the effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date the fiduciary assumes control shall coincide with the effective date of the qualifying documents filed by the fiduciary.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.36 Change in officers and directors.

The proprietor shall submit an amended application to cover changes in the list of officers and directors furnished under the provisions of § 18.25.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.37 Change in stockholders.

The proprietor shall submit changes in the list of stockholders furnished under the provisions of § 18.25 annually on May 1. When the sale or transfer of capital stock results in a change of control or management of the business, the proprietor shall comply with the provisions of § 18.35.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.38 Permanent discontinuance.

A proprietor who permanently discontinues the business of a concentrate manufacturer shall, after completion of operations, file an application on Form 27–G (5520.3) to cover such discontinuance, giving the date of the discontinuance.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.39 Qualification to alternate a volatile fruit-flavor concentrate plant and a distilled spirits plant.

A proprietor of a volatile fruit-flavor concentrate plant operating a contiguous distilled spirits plant may alternate the use of such premises between the two functions through extension and curtailment by filing with the appropriate TTB officer the following information:

(a) TTB Form 27–G (5520.3) and TTB Form 5110.41 to cover the proposed alternation of premises;

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

(c) A bond or a consent of surety to cover the proposed alternation of premises.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

### § 18.40 Qualification to alternate volatile fruit-flavor concentrate plant and bonded wine cellar.

A proprietor of a volatile fruit-flavor concentrate plant operating a contiguous bonded wine cellar may alternate the use of each premise by extension and curtailment by filing with the appropriate TTB officer the following information:

(a) TTB Form 27–G (5520.3) and TTB Form 5120.25 to cover the proposed alternation of premises;

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

(c) A bond or a consent of surety to cover the proposed alternation of premises.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

### § 18.41 Separation of premises.

The appropriate TTB officer may specify additional means of separating the volatile fruit-flavor concentrate plant from a distilled spirits plant or bonded wine cellar premises.

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

### § 18.42 Record of alternation.

After approval of the qualifying documents for the alternation of premises, the proprietor must execute a record each time that the premises are alternated. The record will contain the following information:

(a) Identification assigned by TTB, including the plant or registry number, of the volatile fruit-flavor concentrate plant and the distilled spirits plant or bonded wine cellar;

(b) Effective date and time of proposed change; and

(c) Description of the alternation that identifies the diagrams depicting the premises before and after the alternation.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

### § 18.43 Conditions of alternation.

(a) *Curtailment of volatile fruit-flavor concentrate plant.* The proprietor must remove all concentrate, fruit mash, and juice from the volatile fruit-flavor concentrate plant alternated to a distilled spirits plant or to a bonded wine cellar premises, unless such concentrate, fruit mash, or juice is being simultaneously transferred to the distilled spirits plant or bonded wine cellar premises.

(b) *Extension of volatile fruit-flavor concentrate premises and curtailment of distilled spirits plant.* The proprietor must remove all spirits, denatured spirits, articles and wine, except for concentrate, fruit mash, or juice that is being simultaneously transferred to the volatile fruit-flavor concentrate plant.

(c) *Extension of volatile fruit-flavor concentrate premises and curtailment of bonded wine cellar premises.* The proprietor must remove all wine and spirits from the alternated bonded wine cellar premises, except for concentrate, fruit mash, or juice that is being simultaneously transferred to the volatile fruit-flavor concentrate plant.

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

## Subpart E—Operations

### § 18.51 Processing material.

(a) *General.* A proprietor may produce processing material or receive processing material produced elsewhere. Fermented processing material may not be used in the manufacture of concentrate. Processing material may be used if it contains no more alcohol than is reasonably unavoidable, and must be used when produced, or as soon thereafter as practicable.

(b) *Record of processing material.* A proprietor shall maintain a record, by kind and quantity, of processing material used.

(Approved by the Office of Management and Budget under control number 1512–0098)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.52 Production of high-proof concentrate.

(a) *General.* High-proof concentrate may be produced in a concentrate plant. Concentrate having an alcohol content of more than 24 percent by volume that is fit for beverage use may not be produced in a concentrate plant.

(b) *Determination.* A proprietor shall determine whether a particular concentrate is a high-proof concentrate. However, a proprietor may at any time submit a written request to the appropriate TTB officer for a determination of whether a concentrate is unfit for beverage use. Each request for a determination will include information as to kind, percent alcohol by volume, and fold of the concentrate. The request will be accompanied by a representative 8-ounce sample of the concentrate.

(Approved by the Office of Management and Budget under control number 1512–0046)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.53 Use of concentrate.

Concentrate may be used in the manufacture of any product made in the conduct of another business authorized to be conducted on concentrate plant premises under the provisions of § 18.22, if such product contains less than one-half of one percent of alcohol by volume.

### § 18.54 Transfer of concentrate.

(a) *Concentrate unfit for beverage use.* Concentrate (including high-proof concentrate and concentrate treated as provided in paragraph (c) of this section) unfit for beverage use may be transferred for any purpose authorized by law.

(b) *Concentrate fit for beverage use.* Concentrate fit for beverage use may be transferred only to a bonded wine cellar. If such concentrate is rendered

unfit for beverage use, it may be transferred as provided in paragraph (a) of this section.

(c) *Rendering concentrate unfit for beverage use.* Concentrate may be rendered unfit for beverage use by reducing the alcohol content to not more than 15 percent alcohol by volume (if the reduction does not result in a concentrate of less than 100-fold), and adding to each gallon thereof, in a quantity sufficient to render the concentrate unfit for beverage use, the following:

(1) Sucrose; or

(2) Concentrated fruit juice, of at least 70 Brix, made from the same kind of fruit as the concentrate; or

(3) Malic, citric, or tartaric acid.

(d) *Record of transfer.* The proprietor shall record transfers of concentrate (including high-proof concentrate) on a record of transfer as required in §§ 18.62 or 18.63.

(Approved by the Office of Management and Budget under control number 1512–0098)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.55 Label.

Each container of concentrate will have affixed thereto, before transfer, a label identifying the product and showing (a) the name of the proprietor; (b) the registry number of the plant; (c) the address of the plant; (d) the number of wine gallons; and (e) the percent of alcohol by volume.

(Approved by the Office of Management and Budget under control number 1512–0098)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.56 Receipt of concentrate.

(a) *General.* The proprietor of a concentrate plant may accept the return of concentrate that the proprietor shipped. In addition, concentrate that is unfit for beverage use may be received from another concentrate plant for further processing in accordance with this part.

(b) *Record of concentrate received.* When concentrate is received, the proprietor must record the receipt, including the name of the consignor and a notation regarding any loss in transit or other discrepancy.

(Approved by the Office of Management and Budget under control number 1512–0098)

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

## Subpart F—Records and Reports

### § 18.61 Records and reports.

(a) *General.* Each proprietor shall keep records and reports as required by this part. These records and reports will be maintained on or convenient to the concentrate plant and will be available for inspection by appropriate TTB officers during business hours. Records and reports will be retained by the proprietor for three years from the date they were prepared, or three years from the date of the last entry, whichever is later.

(b) *Records.* Each proprietor shall keep such records relating to or connected with the production, transfer, or return of concentrate and the juice or mash from which it is produced, as will (1) enable any appropriate TTB officer to verify operations and to ascertain whether there has been compliance with law and regulations, and (2) enable the proprietor to prepare Form 1695(5520.2). A proprietor need not prepare a specific record to meet the record requirements of this part. Any book, paper, invoice, bill of lading, or similar document that the proprietor prepares or receives for other purposes may be used, if all required information is shown.

(c) *Reports.* Each proprietor shall prepare and submit reports (including applications) as required by this part.

(Approved by the Office of Management and Budget under control number 1512–0098)

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–172, 49 FR 14941, Apr. 16, 1984; T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.62 Record of transfer.

When concentrate, juice, or fruit mash is transferred from the concentrate plant premises, the proprietor shall prepare, in duplicate, a record of transfer. The record of transfer may consist of a commercial invoice, bill of lading, or any other similar document.

The proprietor shall forward the original of the record of transfer to the consignee and retain the copy as a record. Each record of transfer shall show the following information:

(a) Name, registry number, and address of the concentrate plant;

(b) Name and address of the consignee;

(c) Kind (by fruit from which produced) and description of product, e.g. grape concentrate, concentrated grape juice, unconcentrated grape juice, grape mash;

(d) Quantity (in wine gallons); and

(e) For concentrate, percent of alcohol by volume.

(Approved by the Office of Management and Budget under control number 1512–0098)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–172, 49 FR 14941, Apr. 16, 1984; T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.63 Record of transfer to a bonded wine cellar.

A proprietor transferring concentrate, juice, or fruit mash to a bonded wine cellar shall prepare a record of transfer as required by § 18.62 and enter the following additional information:

(a) Registry number of the bonded wine cellar;

(b) For each product manufactured from grapes or berries, variety of grape or berry;

(c) For concentrate, fold;

(d) For juice and fruit mash, whether volatile fruit flavor has been removed and, if so, whether the identical volatile fruit flavor has been restored; and

(e) For concentrated juice, total solids content before and after concentration.

(Approved by the Office of Management and Budget under control number 1512–0098)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

[T.D. ATF–104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF–172, 49 FR 14941, Apr. 16, 1984; T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 18.64 Photographic copies of records.

Proprietors may record, copy, or reproduce records required by this part by any process which accurately reproduces or forms a durable medium for reproducing the original of 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 record the same as if it were the original record. The reproduced record will be treated and considered for all purposes as though it were the original record. All provisions of law and regulation applicable to the original record are applicable to the reproduced record.

### § 18.65 Annual report.

An annual report, on Form 1695(5520.2), of concentrate plant operations shall be prepared by each proprietor and forwarded in accordance with the instructions for the form. When a proprietor permanently discontinues the business of manufacturing concentrate, the proprietor shall submit the annual report in accordance with the instructions for the form.

[T.D. ATF–436, 66 FR 5472, Jan. 19, 2001]

# PART 19—DISTILLED SPIRITS PLANTS

## Subpart A—Scope

Sec.
19.1 General.
19.2 Territorial extent.
19.3 Related regulations.
19.4 Delegations of the Administrator.

## Subpart B—Definitions

19.11 Meaning of terms.

## Subpart C—Taxes

GALLONAGE TAXES

19.21 Tax.
19.22 Attachment of tax.
19.23 Lien.
19.24 Persons liable for tax.
19.25 Time for tax determination.
19.26 Tax on wine.

ASSESSMENTS

19.31 Production not accounted for.
19.32 Assessment of tax on spirits, denatured spirits, or wines in bond which are

lost, destroyed or removed without authorization.

EFFECTIVE TAX RATES

19.34 Computation of effective tax rate.
19.35 Application of effective tax rate (Actual).
19.36 Standard effective tax rate.
19.37 Average effective tax rate.
19.38 Inventory reserve account.

CLAIMS

19.41 Claims on spirits, denatured spirits, articles, or wines lost or destroyed in bond.
19.42 Claims on spirits returned to bonded premises.
19.43 Claims relating to spirits lost after tax determination.
19.44 Execution of claims and supporting documents.
19.45 Claims for credit of tax.
19.46 Adjustments for credited tax.

## Subpart Ca—Special (Occupational) Taxes

19.49 Liability for special tax.
19.50 Rates of special tax.
19.51 Special tax returns.
19.52 Employer identification number.

SPECIAL TAX STAMPS

19.53 Issuance, distribution, and examination of special tax stamps.
19.54 Changes in special tax stamps.

## Subpart D—Administrative and Miscellaneous Provisions

ACTIVITIES NOT SUBJECT TO THIS PART

19.57 Recovery and reuse of denatured spirits in manufacturing processes.
19.58 Use of taxpaid distilled spirits to manufacture products unfit for beverage use.
19.61 Forms prescribed.
19.62 Alternate methods or procedures.
19.63 Pilot operations.
19.64 [Reserved]
19.65 Experimental distilled spirits plants.
19.66 Application to establish experimental plants.
19.67 Spirits produced in industrial processes.
19.68 Other businesses.
19.70 Exemptions to meet the requirements of National defense.
19.71 Experimental or research operations by scientific institutions and colleges of learning.
19.72 Other businesses.
19.73 Emergency variations from requirements.
19.74 Disaster exemptions.
19.75 Assignment of officers and supervision of operations.
19.76 Allowance of remission, abatement, credit or refund of tax.
19.77 Installation of meters, tanks and other apparatus.
19.78 Approval of qualifying documents.
19.79 Discontinuance of storage facilities.
19.81 Right of entry and examination.
19.82 Detention of containers.
19.83 Samples for the United States.
19.84 Gauging and measuring equipment.

ENTRY AND EXAMINATION OF PREMISES

19.86 Furnishing facilities and assistance.

GAUGING OF SPIRITS, WINES OR ALCOHOLIC FLAVORING MATERIALS

19.91 Gauging.
19.92 When gauges are required.
19.93 Quantity determination of spirits in bond.

SECURING OF CONVEYANCES USED FOR TRANSPORTING SPIRITS

19.96 Securing of conveyances.

CONVEYANCE OF SPIRITS OR WINES ON PLANT PREMISES

19.97 Taxpaid spirits or wines on bonded premises.
19.98 Conveyance of untaxpaid spirits or wines within a distilled spirits plant.
19.99 Spirits in customs custody.

PENALTIES OF PERJURY

19.100 Execution under penalties of perjury.

## Subpart E [Reserved]

## Subpart F—Location and Use

19.131 Restrictions as to location.
19.132 Continuity of premises.
19.133 Use of distilled spirits plant premises.
19.134 Bonded warehouses not on premises qualified for production of spirits.

## Subpart G—Qualification of Distilled Spirits Plants

19.151 General requirements for registration.
19.152 Data for application for registration.
19.153 Statement of physical security.
19.154 Notice of registration.
19.155 Maintenance of registration file.
19.156 Powers of attorney.
19.157 Operating permits.
19.158 Data for application for operating permits.
19.159 Issuance of operating permits.
19.160 Duration of permits.
19.161 Denial of permit.
19.162 Correction of permits.
19.163 Suspension or revocation.
19.164 Rules of practice in permit proceedings.

19.165 Trade names.
19.166 Major equipment.
19.167 Organizational documents.
19.168 Description of plant.
19.169 Registry of stills.
19.170 Statement of production procedure.

CHANGES AFTER ORIGINAL QUALIFICATION

19.180 Application for amended registration.
19.181 Automatic termination of permits.
19.182 Change in name of proprietor.
19.183 Change of trade name.
19.184 Changes in stockholders.
19.185 Changes in officers and directors.
19.186 Change in proprietorship.
19.187 Adoption of formulas.
19.188 Partnerships.
19.189 Change in location.
19.190 Changes in premises.
19.191 Change in operations.
19.192 Change in production procedure.
19.193 Changes in construction or use of buildings and equipment.

OPERATIONS BY ALTERNATING PROPRIETORS

19.201 Procedure for alternating proprietors.

ALTERNATE OPERATIONS

19.202 Alternate use of premises and equipment for customs purposes.
19.203 Alternation of distilled spirits plant and bonded wine cellar premises.
19.204 Alternation of distilled spirits plant and taxpaid wine bottling house premises.
19.205 Alternate curtailment and extension of bonded premises for use as general premises.
19.206 Curtailment and extension of plant premises for the manufacture of eligible flavors.
19.207 Alternate use of distilled spirits plant and volatile fruit-flavor concentrate premises.

PERMANENT DISCONTINUANCE OF BUSINESS

19.211 Notice of permanent discontinuance.

## Subpart H—Bonds and Consents of Surety

19.231 Filing of operations or unit bonds.
19.232 Additional condition of operations bond.
19.233 Corporate surety.
19.234 Deposit of securities in lieu of corporate surety.
19.235 Consents of surety.
19.236 Filing and execution of powers of attorney.
19.237 Disapproval of bonds or consents of surety.
19.238–19.240 [Reserved]
19.241 Operations bond—distilled spirits plant and adjacent bonded wine cellar.
19.242 Area operations bond.
19.243 Withdrawal bond.
19.244 Unit bond.
19.245 Bonds and penal sums of bonds.
19.246 Strengthening bonds.

NEW OR SUPERSEDING BONDS

19.247 General.
19.248 New or superseding bond.

TERMINATION OF BONDS

19.249 Termination of bonds.
19.250 Application of surety for relief from bond.
19.251 Relief of surety from bond.
19.252 Release of pledged securities.

## Subpart I—Construction, Equipment and Security

19.271 Construction of buildings.
19.272 Equipment.
19.273 Tanks.
19.274 Pipelines.
19.275 Continuous distilling system.
19.276 Package scales.
19.277 Measuring devices and proofing instruments.
19.278 Identification of structures, areas, apparatus, and equipment.
19.279 Office facilities.
19.280 Signs.
19.281 Security.
19.282 Breaking Government locks.

## Subpart J—Production

19.311 Notice by proprietor.
19.312 Receipt of materials.
19.313 Use of materials in production of spirits.
19.314 Removal of fermenting material.
19.315 Removal or destruction of distilling material.
19.316 Distillation.
19.317 Treatment during production.
19.318 Addition of caramel to rum or brandy and addition of oak chips to spirits.
19.319 Production gauge.
19.320 Identification of spirits.
19.321 Entry.
19.322 Distillates containing extraneous substances.

FORMULA

19.324 Statement of production procedure or Form 5110.38.

CHEMICAL BY-PRODUCTS

19.326 Spirits content of chemicals produced.
19.327 Disposition of chemicals.
19.328 Wash water.

INVENTORIES

19.329 Production inventories.

## Subpart K—Redistillation

19.331 General.
19.332 Receipts for redistillation
19.333 Redistillation.

## Subpart L—Storage

19.341 General.
19.342 Receipt and storage of bulk spirits and wines.
19.343 Addition of oak chips to spirits and addition of caramel to brandy and rum.

FILLING AND CHANGING PACKAGES

19.344 Filling of packages from tanks.
19.345 Change of packages.

MINGLING OR BLENDING OF SPIRITS

19.346 Mingling or blending of spirits for further storage.
19.347 Packages dumped for mingling.
19.348 Determining age of mingled spirits.
19.349 Mingled spirits or wines held in tanks.

INVENTORIES

19.353 Storage inventories.

## Subpart M—Processing Operations Other Than Denaturation and Manufacture of Articles

19.371 General.

RECEIPT AND USE OF SPIRITS, WINES, AND ALCOHOLIC FLAVORING MATERIALS

19.372 Receipt of spirits, wines and alcoholic flavoring materials for processing.
19.373 Use of spirits, wines and alcoholic flavoring materials.
19.374 Manufacture of nonbeverage products, intermediate products or eligible flavors.

OBSCURATION

19.376 Determining obscuration.

FORMULAS

19.378 Formula requirement.

BOTTLING, PACKAGING, AND REMOVAL OF PRODUCTS

19.381 Removals from processing.
19.382 Bottling tanks.
19.383 Bottling tank gauge.
19.384 Preparation of bottling or packaging record.
19.385 Labels to agree with contents of tanks and containers.
19.386 Alcohol content and fill.
19.387 Completion of bottling.
19.388 Cases.
19.389 Remnants.
19.390 Filling packages.
19.391 Removal by bulk conveyances or pipelines.
19.392 Rebottling.
19.393 Reclosing and relabeling.
19.394 Bottled-in-bond spirits.
19.395 Labels for export spirits.
19.396 Spirits removed for shipment to Puerto Rico.
19.397 Spirits not originally intended for export.
19.398 Alcohol.

RECORDS

19.400 Daily summary record of spirits bottled or packaged.

INVENTORIES

19.401 Inventories of wines and bulk spirits (except in packages) in processing account.
19.402 Inventories of bottled and packaged spirits.

## Subpart N—Denaturing Operations and Manufacture of Articles

19.451 General.

DENATURATION

19.452 Formulas.
19.453 Testing of denaturants.
19.454 Gauge of denaturation.
19.455 Dissolving of denaturants.
19.456 Adding denaturants.
19.457 Neutralizing denatured spirits.
19.458 Restoration and redenaturation of recovered denatured spirits and recovered articles.
19.459 Mixing of denatured spirits.
19.460 Conversion of denatured alcohol formulas.
19.461 Receipt and storage of denatured spirits.
19.462 Filling of containers from tanks.
19.463 Containers for denatured spirits.

INVENTORIES

19.464 Denatured spirits inventories.

ARTICLES

19.471 Manufacture of articles.

## Subpart O—Spirits From Customs Custody

19.481 General.
19.482 Age and fill date.
19.483 Recording gauge.

IMPORTED SPIRITS

19.484 Marks on containers of imported spirits.

PUERTO RICAN AND VIRGIN ISLANDS SPIRITS

19.485 Marks on containers of Puerto Rican and Virgin Islands spirits.

19.486 Additional tax on nonbeverage spirits.
19.487 Abatement, remission, credit or refund.

## Subpart P—Transfers and Withdrawals

GENERAL

19.501 Authority to withdraw.
19.502 Withdrawal of spirits on production or filling gauge.
19.503 Determination of tare.

TRANSFER BETWEEN BONDED PREMISES

19.505 Authorized transfers.
19.506 Application to receive spirits in bond.
19.507 Termination of application.
19.508 Consignor premises.
19.509 Reconsignment.
19.510 Consignee premises.

WITHDRAWALS ON DETERMINATION AND PAYMENT OF TAX

19.515 Determination and payment of tax.
19.516 Bond account.
19.517 Gauge for tax determination.
19.518 Imported spirits.
19.519 Methods of tax payment.
19.520 Employer identification number.
19.521 Application for employer identification number.
19.522 Taxes to be collected by returns.
19.523 Time for filing returns.
19.524 Payment of tax by electronic fund transfer.
19.525 Manner of filing returns.
19.526 Removal of spirits on tax determination.

WITHDRAWAL OF SPIRITS WITHOUT PAYMENT OF TAX

19.531 Authorized withdrawals without payment of tax.
19.532 Withdrawals of spirits for use in wine production.
19.533 Withdrawal of spirits without payment of tax for experimental or research use.
19.534 Withdrawals of spirits for use in production of nonbeverage wine and nonbeverage wine products.

WITHDRAWAL OF SPIRITS FREE OF TAX

19.536 Authorized withdrawals free of tax.
19.537 Withdrawal of spirits free of tax.
19.538 Withdrawal of spirits by the United States.
19.539 Disposition of excess spirits.
19.540 Removal of denatured spirits and articles.
19.541 Reconsignment.

## Subpart Q—Losses and Shortages

LOSSES

19.561 Losses in general.
19.562 Determination of losses in bond.
19.563 Loss of spirits from packages.
19.564 Losses after tax determination.

SHORTAGES

19.565 Shortages of bottled distilled spirits.

## Subpart R—Containers and Marks

CONTAINERS

19.581 Authorized containers.
19.582 Spirits for nonindustrial use.
19.583 Spirits for industrial use.
19.584 Packages.
19.585 Bulk conveyances.
19.586 Tanks.
19.587 Pipelines.
19.588 Construction of bulk conveyances.
19.589 Restrictions on dispositions of bulk spirits.

MARKS

19.592 General.
19.593 Package identification numbers in production and storage.
19.594 Numbering of packages and cases in processing.
19.595 Specifications for marks.
19.596 Marks on packages of spirits filled on bonded premises.
19.597 Kind of spirits.
19.598 [Reserved]
19.599 Change of packages in storage.
19.600 [Reserved]
19.601 Marks on containers of specially denatured spirits.
19.602 Marks on containers of completely denatured alcohol.
19.603 [Reserved]
19.604 Caution label.
19.605 Additional marks on portable containers.
19.606 Marks on bulk conveyances.
19.607 Marks on cases.
19.608 Cases of industrial alcohol.
19.609 [Reserved]
19.610 Obliteration of marks.
19.611 Relabeling and reclosing off bonded premises.
19.612 Authorized abbreviations to identify marks.

## Subpart S—Liquor Bottle and Label Requirements

19.631 Scope of subpart.

LIQUOR BOTTLE REQUIREMENTS

19.632 Bottles authorized.
19.633 Distinctive liquor bottles.
19.634 Receipt and storage of liquor bottles.
19.635 Bottles to be used for display purposes.
19.636 Bottles for testing purposes.
19.637 Bottles not constituting approved containers.

19.638 Disposition of stocks of liquor bottles.
19.639 Use and resale of liquor bottles.

BOTTLE LABEL REQUIREMENTS

19.641 Certificate of label approval or exemption.
19.642 Statements required on labels under an exemption from label approval.
19.643 Brand name, kind, alcohol content, and State of distillation.
19.644 Net contents.
19.645 Name and address of bottler.
19.646 Age of whisky containing no neutral spirits.
19.647 Age of whisky containing neutral spirits.
19.648 Age of brandy.
19.649 Presence of neutral spirits and coloring, flavoring, and blending materials.
19.650 Country of origin.

Subpart T—Closures.

19.661 General.
19.662 Affixing closures.
19.663 Reclosing.

Subpart U—Return of Spirits to Bonded Premises and Voluntary Destruction

RETURNS

19.681 Return of taxpaid spirits to bonded premises.
19.682 Receipt and gauge of returned taxpaid spirits.
19.683 Return of recovered denatured spirits and recovered articles.
19.684 Articles and spirits residues received for redistillation.
19.685 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.
19.686 Return of spirits withdrawn without payment of tax.
19.687 Return of spirits withdrawn for export with benefit of drawback.
19.688 Abandoned spirits.

VOLUNTARY DESTRUCTION

19.691 Voluntary destruction.

Subpart V—Samples of Spirits

19.701 Spirits withdrawn from bonded premises.
19.702 Samples used on bonded premises.
19.703 Taxpayment of samples.
19.704 Labels.

Subpart W—Records and Reports

GENERAL

19.721 Records.
19.722 Conversion between metric and U.S. units.
19.723 Maintenance and preservation of records.
19.724 Modified forms.
19.725 Photographic copies of records.
19.726 Authorized abbreviations to identify spirits.

RECORDS

19.731 General.
19.732 Details of daily records.

PRODUCTION ACCOUNT

19.736 Daily production records.

STORAGE ACCOUNT

19.740 Daily storage records.
19.741 Package summary records.
19.742 Tank record of wine or spirits of less than 190 degrees of proof.
19.743 Tank summary record for spirits of 190 degrees or more of proof.

PROCESSING ACCOUNT

19.746 Processing.
19.747 Records of manufacturing.
19.748 Dump/batch records.
19.749 Bottling and packaging record.
19.750 Records of alcohol content and fill tests.
19.751 Records of finished products.
19.752 Denaturation records.
19.753 Record of article manufacture.

TAX RECORDS

19.761 Record of tax determination.
19.762 Daily summary record of tax determinations.
19.763 Record of average effective tax rates.
19.764 Inventory reserve records.
19.765 Standard effective tax rates.

OTHER RECORDS

19.766 Record of samples.
19.767 Record of destruction.
19.768 Gauge record.
19.769 Package gauge record.
19.770 Transfer record.
19.771–19.772 [Reserved]
19.773 Daily record of wholesale liquor dealer and taxpaid storeroom operations.
19.774 Record of inventories.
19.775 Record of securing devices.
19.776 Record of scale tests.
19.777 [Reserved]
19.778 Removal on or after January 1, 1987 of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas.
19.779 Record of shipment of spirits and specially denatured spirits withdrawn free of tax.
19.780 Record of distilled spirits shipped to manufacturers of nonbeverage products.

SUBMISSION OF FORMS AND REPORTS

19.791 Submission of transaction forms.

19.792 Reports.

## Subpart X—Production of Vinegar by the Vaporizing Process

SCOPE OF SUBPART

19.821 Production of vinegar by the vaporizing process.

QUALIFICATION DOCUMENTS

19.822 Application.
19.823 Changes after original qualification.
19.824 Notice of permanent discontinuance of business.

CONSTRUCTION AND EQUIPMENT

19.825 Construction and equipment.

PLANT OPERATIONS

19.826 Authorized operations.
19.827 Conduct of operations.
19.828 Removals from the premises.

RECORDS

19.829 Daily records.

ADMINISTRATIVE AND MISCELLANEOUS

19.830 Application of distilled spirits tax.

## Subpart Y—Distilled Spirits for Fuel Use

19.901 Scope of subpart.
19.902 Waiver for alcohold fuel plants.
19.903 Alternate methods or procedures.
19.904 Emergency variations from requirements.
19.905 Taxes.
19.906 Special (occupational) tax.

DEFINITIONS

19.907 Meaning of terms.

PERMITS

19.910 Application for permit required.
19.911 Criteria for issuance of permit.
19.912 Small plants.
19.913 Action on applications to establish small plants.
19.914 Medium plants.
19.915 Large plants.
19.916 Organizational documents.
19.917 Powers of attorney.
19.918 Information already on file and supplemental information.

CHANGES AFFECTING APPLICATIONS AND PERMITS

19.919 Changes affecting applications and permits.
19.920 Automatic termination of permits.
19.921 Change in type of alcohol fuel plant.
19.922 Change in name of proprietor.
19.923 Changes in officers, directors, or principal persons.
19.924 Change in proprietorship.
19.925 Continuing partnerships.
19.926 Change in location.

ALTERNATE OPERATIONS

19.930 Alternating proprietorship.

PERMANENT DISCONTINUANCE OF BUSINESS

19.945 Notice of permanent discontinuance.

SUSPENSION OR REVOCATION OF PERMITS

19.950 Suspension or revocation.

BONDS

19.955 Bonds.
19.956 Amount of bond.
19.957 Instructions to compute bond penal sum.
19.958 Conditions of bond.
19.959 Additional provisions with respect to bonds.

CONSTRUCTION, EQUIPMENT AND SECURITY

19.965 Construction and equipment.
19.966 Security.
19.967 Additional security.

SUPERVISION

19.970 Supervision of operations.

ACCOUNTING FOR SPIRITS

19.980 Gauging.
19.981 Inventories.
19.982 Records.
19.983 Spirits rendered unfit for beverage use in the production process.
19.984 Record of spirits received.
19.985 Record of spirits rendered unfit for beverage use.
19.986 Record of dispositions.
19.987 Maintenance and retention of records.
19.988 Reports.

REDISTILLATION

19.990 Redistillation of spirits or fuel alcohol received on the plant premises.

USES, WITHDRAWALS, AND TRANSFERS

19.995 Use on premises.
19.996 Withdrawal of spirits.
19.997 Withdrawal of fuel alcohol.
19.998 Transfer in bond of spirits.
19.999 Consignor premises.
19.1000 Reconsignment in transit.
19.1001 Consignee premises.
19.1002 Prohibited uses, transfers and withdrawals.

MATERIALS FOR RENDERING SPIRITS UNFIT FOR BEVERAGE USE

19.1005 Authorized materials.
19.1006 Other materials.
19.1007 Samples.

MARKS

19.1008 Marks.

### Subpart Z—Paperwork Reduction Act

19.1010 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 19 appear by T.D. ATF–463 and T.D. ATF–462, 66 FR 42733, 42736, Aug. 15, 2001.

## Subpart A—Scope

### § 19.1 General.

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

### § 19.2 Territorial extent.

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

### § 19.3 Related regulations.

Regulations relating to this part are listed below:

27 CFR part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR part 2—Nonindustrial Use of Distilled Spirits and Wine.
27 CFR part 3—Bulk Sales and Bottling of Distilled Spirits.
27 CFR part 4—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 24—Wine.
27 CFR part 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR part 27—Importation of Distilled Spirits, Wine, and Beer.
27 CFR part 28—Exportation of Alcohol.
27 CFR part 29—Stills and Miscellaneous Regulations.
27 CFR part 30—Gauging Manual.
27 CFR part 31—Alcohol Beverage Dealers.
27 CFR part 71—Rules of Practice in Permit Proceedings.
27 CFR part 197—Drawback on Distilled Spirits Used in Manfacturing Nonbeverage Products.
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.

[T.D. ATF–199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF–207, 50 FR 23681, June 5, 1985; T.D. ATF–299, 55 FR 24989, June 19, 1990; T.D. ATF–459, 66 FR 38549, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004; T.D. TTB–25, 70 FR 19882, Apr. 15, 2005]

### § 19.4 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.19, Delegation of the Administrator's Authorities in 27 CFR Part 19, Distilled Spirits. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16928, Apr. 4, 2006]

## Subpart B—Definitions

### § 19.11 Meaning of terms.

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

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Alcoholic flavoring materials.* Any nonbeverage product on which drawback has been or will be claimed under 26 U.S.C. 5131–5134 or flavors imported

free of tax which are unfit for beverage purposes. The term includes eligible flavors but does not include flavorings or flavoring extracts manufactured on the bonded premises of distilled spirits plant as an intermediate product.

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

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.19, Delegation of the Administrator's Authorities in 27 CFR Part 19, Distilled Spirits Plants.

*Article.* A product, containing denatured spirits, which was manufactured under 27 CFR part 20 or this part.

*Bank.* Any commercial bank.

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

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

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

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

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

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

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

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

*Calendar quarter and quarterly.* These terms refer to the three-month period ending on March 31, June 30, September 30, or December 31.

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

*CFR.* The Code of Federal Regulations.

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

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

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

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

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

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

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

*District director.* A district director of internal revenue.

*Effective tax rate.* The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is paid or determined.

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

*Eligible flavor.* A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

*Eligible wine.* Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

*Export or exportation.* A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, and to the territories of the Virgin Islands, American Samoa, and Guam, shall also be treated as exportations.

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

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

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

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

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

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

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

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

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

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

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

*Lot identification.* The lot identification described in § 19.593.

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

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

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

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

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

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

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

*Plant number.* The number assigned to a distilled spirits plant by the appropriate TTB officer.

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

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

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

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

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

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

*Recovered article.* An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under 27 CFR part 20.

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

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

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

*Spirits or distilled spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits unless specifically stated. The term does not include mixtures of distilled spirits and wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

*Spirits residues.* Residues, containing distilled spirits, of a manufacturing process related to the production of an article under 27 CFR part 20.

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

*Taxpaid.* When used with respect to distilled spirits shall mean that all applicable taxes imposed by law in respect of such spirits have been determined or paid as provided by law.

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

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

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

*TTB.* The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*TTB bond* The internal revenue bond as prescribed in 26 U.S.C. Chapter 51.

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

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985; T.D. ATF–206, 50 FR 23951, June 7, 1985; T.D. ATF–230, 51 FR 21748, June 16, 1986; T.D. ATF–297, 55 FR 18061, Apr. 30, 1990; T.D. ATF–398, 63 FR 44783, Aug. 21, 1998; T.D. TTB–41, 71 FR 5601, Feb. 2, 2006; T.D. TTB–44, 71 FR 16928, Apr. 4, 2006; 71 FR 25753, May 2, 2006]

## Subpart C—Taxes

GALLONAGE TAXES

### § 19.21 Tax.

(a) A tax is imposed by 26 U.S.C. 5001 and 7652 on all spirits produced in, imported into or brought into the United States at the rate prescribed in section 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of a proof gallon. Wines containing more than 24 percent of alcohol by volume are taxed as spirits. All products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, are considered and taxed as spirits.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 19.34. The effective tax rate established will be applied to each withdrawal or other taxable disposition of the distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010); Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652)).

[T.D. ATF–297, 55 FR 18061, Apr. 30, 1990]

### § 19.22 Attachment of tax.

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

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

### § 19.23 Lien.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.24 Persons liable for tax.

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

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

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

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

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

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

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

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

### § 19.25 Time for tax determination.

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

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

### § 19.26 Tax on wine.

(a) *Imposition of tax.* A tax is imposed by 26 U.S.C. 5041 or 7652 on wine (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported or brought into the United States. Proprietors of distilled spirits plants may become liable for wine taxes under 26 U.S.C. 5362(b)(3) in connection with wine transferred in bond to a distilled spirits plant. Wine may not be removed from the bonded premises of a distilled spirits plant for consumption or sale as wine.

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

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

[T.D. ATF–297, 55 FR 18062, Apr. 30, 1990; 55 FR 23634, June 11, 1990]

## ASSESSMENTS

### § 19.31 Production not accounted for.

Where the appropriate TTB officer finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the

difference between the quantity reported and the quantity found to have been actually produced.

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

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

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

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

## EFFECTIVE TAX RATES

SOURCE: Sections 19.34 through 19.38 added by T.D. ATF–297, 55 FR 18062, Apr. 30, 1990, unless otherwise noted.

### § 19.34 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), which would be imposed on the wine but for its removal to bonded premises; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD

| | |
|---|---|
| Distilled spirits ..... | 2249.1 proof gallons. |
| Eligible wine (14% alcohol by volume). | 2265.0 wine gallons. |
| Eligible wine (19% alcohol by volume). | 1020.0 wine gallons. |
| Eligible flavors ..... | 100.9 proof gallons. |

$$\frac{2249.1\ (\$13.50) + 2265.0\ (\$1.07) + 1020\ (\$1.57) + 16.6^{1}\ (\$13.50)}{2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38)} =$$

$$\frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6} =$$

$$\frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

[1] Proof gallons by which distilled spirits derived from eligible flavors exceed 2½%) of the total proof gallons in the batch (100.9 − (2½%)×3,371.8=16.6).

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18062, Apr. 30, 1990, as amended by T.D. ATF–307, 52736, Dec. 21, 1990]

### § 19.35 Application of effective tax rate (Actual).

Any proprietor who does not apply effective tax rates to taxable removals in accordance with §§ 19.36, 19.37 or 19.38 shall establish an effective tax rate for each batch of distilled spirits in the processing account on which credit against tax is desired for alcohol derived from eligible wine or eligible flavors. The effective tax rate will be computed in accordance with § 19.34 and will be recorded on the dump or batch record for the product, as required by § 19.748. The serial numbers of the cases removed at such rate shall be recorded on the record of tax determination prescribed in § 19.761 or other related record available for examination by any appropriate TTB officer.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

### § 19.36 Standard effective tax rate.

(a) The proprietor may establish a permanent standard effective tax rate for any eligible distilled spirits product based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product. The permanent standard effective tax rate must equal the highest tax rate applicable to the product. The proprietor shall maintain a permanent record of the standard effective tax rate established for each product in accordance with § 19.765. Whenever the proprietor manufactures a batch of the product with a lesser quantity or lower alcohol content of eligible wine or eligible flavor, he shall keep the cased goods segregated from other completed cases of the same product and shall tax determine the product in accordance with § 19.35.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue or causes administrative difficulty, the proprietor shall discontinue the use of the procedure.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

### § 19.37 Average effective tax rate.

(a) The proprietor may establish an average effective tax rate for any eligible distilled spirits product based on the total proof gallons in all batches of the same composition which have been produced during the preceding 6-month period and which have been or will be bottled or packaged, in whole or in part, for domestic consumption. At the beginning of each month, the proprietor shall recompute the average effective tax rate so as to include only the immediately preceding 6-month period. The average effective tax rate established for a product will be shown in the record of average effective tax rates prescribed in § 19.763.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue or causes administrative difficulty, the proprietor shall discontinue the use of this procedure.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

### § 19.38 Inventory reserve account.

(a) The proprietor may establish an inventory reserve account for any eligible distilled spirits product by maintaining an inventory reserve record as prescribed by 19.764. The effective tax rate applied to each removal or other disposition will be the effective tax rate recorded on the inventory reserve record from which the removal or other disposition is depleted.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue or causes administrative difficulty, the proprietor shall discontinue the use of this procedure.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

## CLAIMS

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The name, plant number, and the address of the plant where the tax was determined, paid, or assessed (or name,

address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

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

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

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

### § 19.42 Claims on spirits returned to bonded premises.

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

(1) Quantity of spirits so returned;

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

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

(4) The purpose for which returned; and

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

(b) If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim shall show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and

(2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands spirits, or on the rum imported from any other area, contained in the product.

(c) Claims for credit or refund of tax on spirits containing eligible wine or eligible flavors must set forth the date and serial number of the record of tax determination and the effective tax rate at which the tax was paid or determined. If this information is not provided, the amount of tax claimed will be based on the lowest effective tax rate applied to the product.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–233, 51 FR 28077, Aug. 5, 1986; T.D. ATF–297, 55 FR 18063, Apr. 30, 1990]

### § 19.43 Claims relating to spirits lost after tax determination.

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

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

### § 19.44 Execution of claims and supporting documents.

All claims filed under this part shall be filed on Form 2635 (5620.8). Claims for abatement, remission, credit, or refund shall (a) show the name, address, and capacity of the claimant, (b) be signed by the claimant or his duly authorized agent, and (c) be executed under the penalties of perjury as provided in § 19.100. Supporting documents required by this part to be submitted with a claim shall be attached to the claim and shall be deemed to be a part thereof. The appropriate TTB officer officer may require the submission of additional evidence in support of any claim filed under this part when

deemed necessary for proper action on the claim.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985; T.D. ATF–251, 52 FR 19313, May 22, 1987]

### § 19.45 Claims for credit of tax.

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

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

### § 19.46 Adjustments for credited tax.

When notification of allowance of credit is received from the appropriate TTB officer, including notification of credit for tax on spirits exported with benefit of drawback as provided in 27 CFR part 28, the claimant shall make an adjusting entry and explanatory statement (specifically identifying the notification of allowance of credit) in the next excise tax return (or returns) to the extent necessary to exhaust the credit.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

## Subpart Ca—Special (Occupational) Taxes

SOURCE: T.D. ATF–271, 53 FR 17541, May 17, 1988, unless otherwise noted.

### § 19.49 Liability for special tax.

(a) *Proprietor of distilled spirits plant*—(1) *General.* Except as provided in § 19.906, every proprietor of a distilled spirits plant shall pay a special (occupational) tax at a rate specified by § 19.50. The tax shall be paid on or before the date of commencing business as a distilled spirits plant proprietor, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(2) *Transition rule.* For purposes of paragraph (a)(1) of this section, a proprietor engaged in distilled spirits plant operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(3) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a)(1) of this section is zero. However, each proprietor still must register by filing the special tax return on Form 5630.5 during this suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(b) *Liquor Dealer*—(1) *General.* A proprietor of a distilled spirits plant shall be subject to or exempt from a liquor dealer's special (occupational) tax as provided in part 31 of this chapter.

(2) *Exemption for sales by a proprietor of a distilled spirits plant.* A proprietor of a distilled spirits plant is not required to pay special tax, or to register during the suspension period described in paragraph (a)(3) of this section, as a wholesale or retail dealer in liquor because of sales, at the principal place of business or at the distilled spirits plant, of liquor which at the time of sale is stored at the distilled spirits plant or which had been removed and stored in a taxpaid storeroom operated in connection with the distilled spirits plant. Each proprietor of a distilled spirits plant shall have only one exemption from dealer's special tax, or from dealer's registration, for each distilled spirits plant. The distiller may designate, in writing to the appropriate TTB officer, that the principal place of business will be exempt from dealer's special tax or registration; otherwise, the exemption will apply to the distilled spirits plant.

(c) *Each place of business taxable*—(1) *General.* A proprietor of a distilled spirits plant incurs special tax liability, or an obligation to register during the suspension period described in paragraph (a)(3) of this section, at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(2) *Exception for contiguous areas.* A proprietor of a distilled spirits plant does not incur additional special tax liability, or an obligation to register during the suspension period described in paragraph (a)(3) of this section, for sales of liquor made at a location other than on distilled spirits plant premises described on the notice of registration, Form 5110.41, if the location where such sales are made is contiguous to the distilled spirits plant premises in the manner described in paragraph (c)(1) of this section.

(26 U.S.C. 5081, 5111, 5113, 5142, 5143)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. ATF–285, 54 FR 12609, Mar. 28, 1989; T.D. TTB–25, 70 FR 19882, Apr. 15, 2005; T.D. TTB–36, 70 FR 62242, Oct. 31, 2005]]

## § 19.50 Rates of special tax.

(a) *General.* Title 26 U.S.C. 5081(a)(1) imposes a special tax of $1,000 per year on every proprietor of a distilled spirits plant. However, under 26 U.S.C. 5148(a) the tax rate is zero during the suspension period described in § 19.49(a)(3).

(b) *Reduced rate for small proprietors.* Except during the suspension period described in § 19.49(a)(3) when the tax rate is zero, title 26 U.S.C. 5081(b) provides for a reduced rate of $500 per year with respect to any distilled spirits plant proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 19.49 relates) are less than $500,000. The ''taxable year'' to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ''controlled group''; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. ''Controlled group'' means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5081)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62243, Oct. 31, 2005]

**§ 19.51 Special tax returns.**

(a) *General.* Special tax shall be paid by return, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 19.49(a)(3). The prescribed return is Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of applicable tax, shall be filed in accordance with instructions on the form.

(b) *Preparation of TTB Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 19.52).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 19.49(a)(3).

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax, or required to register during the suspension period described in § 19.49(a)(3), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, Form 5630.5, with payment of applicable tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid, or for which registration is being made during the suspension period described in § 19.49(a)(3). The original of the list shall be filed in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 19.723(c).

(d) *Signing of TTB Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as ''individual owner,'' ''member of firm,'' or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has

been executed under the penalties of perjury.

(26 U.S.C. 6061, 6065, 6151, 7011)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62243, Oct. 31, 2005]

### § 19.52 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.113 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

## SPECIAL TAX STAMPS

### § 19.53 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a properly executed return on Form 5630.5, together with the applicable full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 19.51(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(2) *Exception for suspension period.* During the suspension period described in § 19.49(a)(3) when registration is required but no tax is due, a special tax stamp will not be issued.

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62243, Oct. 31, 2005]

### § 19.54 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on Form 5630.5, the proprietor shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade name. No new special tax is required to be paid. The proprietor shall attach the special tax stamp for endorsement of the change in name except if the change occurs during the suspension period described in § 19.49(a)(3).

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a distilled spirits plant, the successor shall file a new special tax

return, pay a new special tax, and obtain the required special tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 19.49(a)(3) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid (or for which registration was made during the suspension period described in § 19.49(a)(3)), without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on Form 5630.5, which shows the basis of succession. Except during the suspension period described in § 19.49(a)(3), a person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business. During the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* (1) Subject to paragraph (d)(2) of this section, if there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to file a new special tax return, pay a new special tax, and obtain a new special tax stamp.

(2) If the change in location occurs during the suspension period described in § 19.49(a)(3) when no tax is due and no special tax stamp is issued, the requirements of paragraph (d)(1) of this section still apply, except with regard to attachment of a special tax stamp and payment of a new special tax. During the suspension period, a failure to comply with paragraph (d)(1) of this section may result in a penalty under 26 U.S.C. 5603(b).

(26 U.S.C. 5143, 7011)

[T.D. ATF–271, 53 FR 17541, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62243, Oct. 31, 2005]

## Subpart D—Administrative and Miscellaneous Provisions

ACTIVITIES NOT SUBJECT TO THIS PART

### § 19.57 Recovery and reuse of denatured spirits in manufacturing processes.

The following persons are not, by reason of the activities listed below, subject to the provisions of this part, but they shall comply with the provisions of part 20 of this chapter relating to the use and recovery of spirits or denatured spirits:

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

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

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which

were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

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

[T.D. ATF–379, 61 FR 31425, June 20, 1996]

### § 19.58 Use of taxpaid distilled spirits to manufacture products unfit for beverage use.

(a) *General.* Apothecaries, pharmacists, and manufacturers are not required to qualify as processors under 26 U.S.C. 5171 before manufacturing or compounding the following products, if the tax has been paid or determined on all of the distilled spirits contained therein:

(1) Medicines, medicinal preparations, food products, flavors, flavoring extracts, and perfume, conforming to the standards for approval of nonbeverage drawback products found in §§ 17.131–17.137 of this chapter, whether or not drawback is actually claimed on those products. Except as provided in paragraph (c) of this section, a formula need not be submitted if drawback is not desired.

(2) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(3) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(4) Laboratory reagents, stains, and dyes that are unfit for use for beverage purposes.

(5) Flavoring extracts, syrups, and concentrates that are unfit for use for beverage purposes.

(b) *Exceptions; products classed as beverages.* Products specified under part 17 of this chapter as being fit for beverage use are alcoholic beverages. Bitters, patent medicines, and similar alcoholic preparations which are fit for beverage purposes, although held out as having certain medicinal properties, are also alcoholic beverages. Such products are required to be manufactured on the bonded premises of a distilled spirits plant, and are subject to the provisions of this part.

(c) *Formulas and samples; when required.* On request of the appropriate TTB officer, or when in doubt as to the classification of a product, the manufacturer shall submit to the appropriate TTB officer the formula for and a sample of the product for examination to verify the manufacturer's claim of exemption from qualification requirements.

(d) *Change of formula; when required.* If the appropriate TTB officer finds at any time that any product manufactured under paragraph (a) of this section is being used for beverage purposes, or for mixing with beverage spirits other than by a processor, he or she shall notify the manufacturer to desist from manufacturing the product until the formula is changed to make the product not susceptible of beverage use and the change is approved by the appropriate TTB officer. (However, the provisions of this paragraph shall not prohibit such products, which are unfit for beverage use, from being used in small quantities for flavoring drinks at the time of serving for immediate consumption.) Where, pursuant to notice, the manufacturer does not desist, or the formula is not so modified as to make the product unsusceptible of beverage use, the manufacturer shall immediately qualify as a processor.

(Sec. 805, Pub. L. 96–39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

[T.D. ATF–379, 61 FR 31425, June 20, 1996]

### § 19.61 Form prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information required by each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. 372, 61 FR 20724, May 8, 1996; T.D. TTB–44, 71 FR 16929, Apr. 4, 2006]

### § 19.62 Alternate methods or procedures.

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

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

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

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

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

### § 19.63 Pilot operations.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–271 53 FR 17543, May 17, 1988]

### § 19.64 [Reserved]

### § 19.65 Experimental distilled spirits plants.

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

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

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

(c) Industrial uses of spirits.

The appropriate TTB officer may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312) and of this part (other than this section and § 19.66) to the extent he deems necessary to effectuate the purposes of 26 U.S.C. 5312(b), except that he may not waive the payment of any tax on spirits removed from such plant. A proprietor of an experimental distilled spirits plant established under this section is subject to special (occupational) tax under subpart Ca of this part and shall hold a

separate special tax stamp to cover the experimental operations.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–271 53 FR 17543, May 17, 1988]

### § 19.66 Application to establish experimental plants.

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

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

### § 19.67 Spirits produced in industrial processes.

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

(2) The appropriate TTB officer may, however, waive any provision of 26 U.S.C. Chapter 51, or of this part, with respect to the production of nonpotable chemical mixtures containing spirits, including any provision relating to qualification (except the payment of special (occupational) tax), if such mixtures are produced:

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

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

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

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

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

(b) *Application for waiver*. (1) When the producer of nonpotable mixtures desires to secure a waiver of designated provisions of 26 U.S.C. Chapter 51, or this part, he shall file an application with the appropriate TTB officer.

(2) The application shall include, as applicable—

(i) Name and address of producer;

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

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

(iv) Method of operation proposed;

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

(vi) Other pertinent information required by the appropriate TTB officer.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–271 53 FR 17543, May 17, 1988]

### § 19.68 Other businesses.

The appropriate TTB officer may authorize the carrying on of other businesses (not specifically prohibited by 26

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

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

### § 19.70 Exemptions to meet the requirements of National defense.

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

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

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

(a) *General.* The appropriate TTB officer may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in quantities as may be reasonably necessary for such purposes. The appropriate TTB officer may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312), or this part (other than this section) to the extent necessary to effect the purposes of 26 U.S.C. 5312(a), except he may not waive the payment of any tax on distilled spirits removed from any university, college, or institution. A person conducting experimental or research operations authorized under this section is subject to special (occupational) tax under subpart Ca of this part and shall hold a special tax stamp to cover the experimental or research operations.

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

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

(d) *Discontinuance of operations.* When operations authorized by the appropriate TTB officer are discontinued, all remaining spirits shall be disposed of by destruction. When these spirits have been destroyed, notice of the discontinuance of operations shall be given to the appropriate TTB officer.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–271, 53 FR 17543, May 17, 1988]

### § 19.72 Other businesses.

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

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

### § 19.73 Emergency variations from requirements.

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

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

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

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

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgement of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the appropriate TTB officer. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved.

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

### § 19.74 Disaster exemptions.

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

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

### § 19.75 Assignment of officers and supervision of operations.

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

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

(2) The appropriate TTB officer may require the proprietor to submit a schedule of operations to an appropriate TTB officer.

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

(c) *Notification of supervision.* (1) When it is determined that supervision of plant operations is necessary, the appropriate TTB officer shall notify the proprietor of the extent of TTB supervision.

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

(d) *Withdrawal of supervision.* The appropriate TTB officer shall notify the

proprietor when TTB supervision of plant operations is to be withdrawn.

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

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

The appropriate TTB officer is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

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

### § 19.77 Installation of meters, tanks and other apparatus.

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

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

### § 19.78 Approval of qualifying documents.

The appropriate TTB officer is authorized to approve, except as otherwise provided in this part, all qualifying documents, including bonds and consents of surety, required by this part.

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

### § 19.79 Discontinuance of storage facilities.

When the appropriate TTB officer finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or that spirits stored are subject to great loss or wastage, he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the appropriate TTB officer may require and the expense of the transfer shall be paid by the owner or the warehouseman of the spirits. Whenever the owner of such spirits or the warehouseman fails to make such transfer within the time prescribed or to pay the just and proper expense of such transfer, as ascertained and determined by the appropriate TTB officer, such spirits may be seized and sold in the same manner as goods sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance shall be paid over to the owner of such spirits.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.81 Right of entry and examination.

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

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

### § 19.82 Detention of containers.

Any appropriate TTB officer may detain any container containing, or supposed to contain, spirits when such officer has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this part, or that such container is being removed in violation of law or this part. Every such container may be held by the appropriate TTB officer at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded

against for forfeiture. However, such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the appropriate TTB officer, unless the person in possession of the container immediately prior to its detention, in consideration of the container being kept on his premises during detention, executes a waiver of the 72-hours limitation on detention of the container.

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

### § 19.83 Samples for the United States.

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

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

### § 19.84 Gauging and measuring equipment.

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

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

## ENTRY AND EXAMINATION OF PREMISES

### § 19.86 Furnishing facilities and assistance.

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

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

## GAUGING OF SPIRITS, WINES OR ALCOHOLIC FLAVORING MATERIALS

### § 19.91 Gauging.

(a) *Gauging of spirits and wine.* Gauges shall be made by the proprietor. However, the appropriate TTB officer may require that such gauges be made in the presence of and be verified by an appropriate TTB officer. Gauges of spirits, denatured spirits, or wine shall be made in accordance with 27 CFR part 30 and as provided in this part. However, the gauge for wine that is to be transferred to a bonded wine cellar shall be recorded by kind and percent of alcohol by volume. When bulk spirits, denatured spirits, or wines are to be volumetrically measured, the measurement shall be in a tank or bulk conveyance for which a calibration chart is provided, by a meter approved under § 19.277, or, when approved by the appropriate TTB officer, by other devices or methods. Calibration charts shall be certified as accurate by persons qualified to calibrate tanks or bulk conveyances. When spirits in bottles are gauged, the gauge may be established on the basis of legible case markings and label information, if (1) the bottles

are full, and (2) there is no evidence that the bottles have been tampered with.

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

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

### § 19.92 When gauges are required.

(a) *Initial proof.* Except for a gauge required by § 19.383 or § 19.517 or in any case where the proof changes as a result of a storage or processing operation, the initial determination of proof for distilled spirits, wine, or eligible flavors may be used whenever a subsequent gauge is required by this part to be made at the same plant.

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

(1) Entered for deposit,

(2) Filled into packages from storage tanks,

(3) Transferred or received in bond,

(4) Transferred between operational accounts,

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

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

(7) Destroyed,

(8) Removed or withdrawn from bond,

(9) Returned to bond, or

(10) As otherwise required by the appropriate TTB officer.

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

[T.D. ATF–199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF–297, 55 FR 18063, Apr. 30, 1990]

### § 19.93 Quantity determination of spirits in bond.

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

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

## SECURING OF CONVEYANCES USED FOR TRANSPORTING SPIRITS

### § 19.96 Securing of conveyances.

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

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

(i) Be made of durable materials,

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

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

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

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

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

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

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

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

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

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

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

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

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

CONVEYANCE OF SPIRITS OR WINES ON PLANT PREMISES

## § 19.97 Taxpaid spirits or wines on bonded premises.

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

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

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

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

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

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

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

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

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

### § 19.99 Spirits in customs custody.

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

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

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

(c) A description of the means and route of conveyance of the spirits across the plant premises has been submitted to and approved by the appropriate TTB officer, and

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

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

PENALTIES OF PERJURY

### § 19.100 Execution under penalties of perjury.

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

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

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

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

## Subpart E [Reserved]

## Subpart F—Location and Use

### § 19.131 Restrictions as to locations.

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

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

### § 19.132 Continuity of premises.

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

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

### § 19.133 Use of distilled spirits plant premises.

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

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

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

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

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

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

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

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

(2) The application shall include:

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

(ii) Probable number of depositors of spirits;

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

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

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

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

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

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

## Subpart G—Qualification of Distilled Spirits Plants

### § 19.151 General requirements for registration.

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

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.152 Data for application for registration.

Application on Form 5110.41 shall include the following information:

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

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

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

(d) Statement of the operations to be conducted.

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

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

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

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

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

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

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

(l) As applicable, the following:

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

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

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

(iii) Statement whether spirits will be redistilled.

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

(i) Description of the system of storage.

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

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

(i) Statement whether bottling operations will be conducted.

(ii) Statement whether denaturing operations will be conducted.

(iii) Statement whether articles will be manufactured.

(iv) Statement whether spirits will be redistilled.

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

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

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

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

### § 19.153 Statement of physical security.

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

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

(2) A statement whether guard personnel are employed;

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

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

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

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

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

### § 19.154 Notice of registration.

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

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

### § 19.155 Maintenance of registration file.

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

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

### § 19.156 Powers of attorney.

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

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

### § 19.157 Operating permits.

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

(1) Distilling for industrial use.

(2) Warehousing of spirits for industrial use.

(3) Denaturing spirits.

(4) Warehousing of spirits (without bottling) for nonindustrial use.

(5) Bottling or packaging of spirits for industrial use.

(6) Manufacturing articles.

(7) Any other distilling, warehousing, or processing operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978, 27 U.S.C. 203, 204). Application for such operating permit shall be made on Form 5110.25 to the appropriate TTB officer.

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

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

### § 19.158 Data for application for operating permits.

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

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

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

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

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

(e) Trade names (see § 19.165).

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

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

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

### § 19.159 Issuance of operating permits.

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

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

### § 19.160 Duration of permits.

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

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

### § 19.161 Denial of permit.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation), the appropriate TTB officer has reason to believe that—

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

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

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the

revenue; the appropriate TTB officer may institute proceedings for the denial of the application in accordance with the procedures set forth in 27 CFR part 71.

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

### § 19.162 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the appropriate TTB officer, immediately return the permit for correction.

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

### § 19.163 Suspension or revocation.

Whenever the appropriate TTB officer has reason to believe that any person holding an operating permit—

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

(b) Has violated conditions of the permit; or

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

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

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

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the appropriate TTB officer may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR part 71.

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

### § 19.164 Rules of practice in permit proceedings.

The regulations in 27 CFR part 71 are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and in connection with the suspension and revocation of such permit.

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

### § 19.165 Trade names.

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

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

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

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

### § 19.166 Major equipment.

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

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

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

(c) Condensers (serial number).

A statement of certification of accurate calibration shall be included in the description of tanks that are to be

used for gauging distilled spirits or wine for any purpose.

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

### § 19.167 Organizational documents.

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

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

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

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

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

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

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

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

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

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

### § 19.168 Description of plant.

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

(b) The description shall:

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

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

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

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

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

### § 19.169 Registry of stills.

The provisions of subpart C of part 29 of this chapter are applicable to stills or distilling apparatus located on plant premises used for distilling. As provided under § 29.55, the listing of a still in the application for registration, and approval of the application, constitutes registration of the still.

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

[T.D. ATF–207, 50 FR 23681, June 5, 1985]

### § 19.170 Statement of production procedure.

The statement of production procedure in the application for registration shall set forth a step-by-step description of the procedure employed to produce spirits from an original source,

commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, purifying and refining procedure to the production gauge. The kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits shall be shown.

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

CHANGES AFTER ORIGINAL QUALIFICATION

### § 19.180 Application for amended registration.

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

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

### § 19.181 Automatic termination of permits.

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

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

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

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

### § 19.182 Change in name of proprietor.

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

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

### § 19.183 Change of trade name.

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

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

### § 19.184 Changes in stockholders.

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

change in the control or management of the business.

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

### § 19.185 Changes in officers and directors.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.186 Change in proprietorship.

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 19.187 Adoption of formulas.

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985]

### § 19.188 Partnerships.

If under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed,

and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety is filed, wherein the surety and the surviving partner agree to remain liable on the operations or unit bond. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 19.186(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

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

### § 19.189 Change in location.

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

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

### § 19.190 Changes in premises.

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

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

### § 19.191 Change in operations.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.192 Change in production procedure.

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

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

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

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

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

(1) Describe the proposed change in detail;

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

(3) After completion of the change, be incorporated in the next amendment of the notice of registration on Form 5110.41, unless the appropriate TTB officer requires immediate amendment.

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

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

OPERATIONS BY ALTERNATING PROPRIETORS

**§ 19.201 Procedure for alternating proprietors.**

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

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

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

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

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

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

ALTERNATE OPERATIONS

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

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

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

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

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

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

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

(b) *Qualifying documents.* The proprietor shall file with the appropriate TTB officer:

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

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

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

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

removed prior to alternation to distilled spirits plant premises unless wine is being simultaneously transferred in bond to the distilled spirits plant.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

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

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

(b) *Qualifying documents.* The proprietor shall file with the appropriate TTB officer:

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

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

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

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

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

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

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

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

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

(c) *Proprietor's responsibility.* Once such qualifying documents have been approved by the appropriate TTB officer, the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by

extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits, denatured spirits, articles, and wines from the premises or equipment affected by the notice prior to the effective date and hour of the notice, except that—

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

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

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

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

### § 19.206 Curtailment and extension of plant premises for the manufacture of eligible flavors.

(a) *General.* The premises of a distilled spirits plant may be alternately curtailed and extended, as provided in this section, to permit the use of the facilities for the manufacture of eligible flavors.

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

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

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

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

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

(2) Taxpaid spirits which are on portions of premises to be included by extension of bonded premises and which have not been used in the manufacture of a nonbeverage product need not be removed if the spirits are to be dumped immediately and returned to bond under the provisions of subpart U of this part.

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

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

[T.D. ATF–297, 55 FR 18063, Apr. 30, 1990]

### § 19.207 Alternate use of distilled spirits plant and volatile fruit-flavor concentrate premises.

If a proprietor of distilled spirits plant wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply

with the requirements of §§ 18.39 and 18.41 through 18.43 of this title.

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

PERMANENT DISCONTINUANCE OF BUSINESS

### § 19.211 Notice of permanent discontinuance.

When the proprietor permanently discontinues any or all of the operations listed in the notice of registration, he shall file a Form 5110.41 to show the discontinuance. Form 5110.41 shall be accompanied (a) by all permits issued to the proprietor under this subpart covering the discontinued operations, and by the proprietor's request that such permits be canceled; (b) by the proprietor's written statement disclosing, as applicable, whether (1) all spirits, denatured spirits, articles, wines, liquor bottles, and other pertinent items have been lawfully disposed of, (2) any spirits, denatured spirits, wines, or liquor bottles are in transit to the premises, (3) all approved applications for transfer of spirits and denatured spirits to the premises have been secured and returned to the appropriate TTB officer for cancellation; and (c) by pertinent reports covering the discontinued operations (each report shall be marked ''Final Report'').

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

[T.D. ATF–206, 50 FR 23951, June 7, 1985]

## Subpart H—Bonds and Consents of Surety

### § 19.231 Filing of operations or unit bonds.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.232 Additional condition of operations bond.

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

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

### § 19.233 Corporate surety.

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

(b) Treasury Department Circular No. 570 is published in the FEDERAL

REGISTER yearly as of the first workday of July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(Ch. 390, Pub. L. 80–280, 61 Stat. 648 as amended (31 U.S.C. 9304, 9306))

### § 19.234 Deposit of securities in lieu of corporate surety.

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

(Ch. 390, Pub. L. 80–280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

### § 19.235 Consents of surety.

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

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

### § 19.236 Filing and execution of powers of attorney.

(a) *Filing.* Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

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

(Ch. 390, Pub. L. 80–280, 61 Stat. 648 (31 U.S.C. 9304, 9306))

### § 19.237 Disapproval of bonds or consents of surety.

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

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

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

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

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

### §§ 19.238–19.240 [Reserved]

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

(a) *General.* A wine cellar under the provisions of 27 CFR part 24 shall be treated as being adjacent to a distilled spirits plant if—

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

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

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

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–299, 55 FR 24989, June 19, 1990]

### § 19.242 Area operations bond.

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

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

### § 19.243 Withdrawal bond.

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

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

### § 19.244 Unit bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) who would otherwise be required to give bonds for both operations at one or more distilled spirits plants (and any adjacent bonded wine cellars) and withdrawals from one or more distilled spirits plants within a reigon may, in lieu of furnishing separate bonds for operations and withdrawals, furnish a unit bond containing the terms and conditions of the bonds

in lieu of which it is given. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. The unit bond shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with § 19.245) for operations at and withdrawals from each plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (if the bond covers more than one plant), is in an amount less than the maximum prescribed in § 19.245, operations at and/or withdrawals from such plant shall not exceed the quantity permissible as reflected by the penal sum in the bond for such plant. The unit bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

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

### § 19.245 Bonds and penal sums of bonds.

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

PENAL SUM

| Type of bond | Basis | Minimum | Maximum |
|---|---|---|---|
| (a) Operations bond: | | | |
| (1) One plant bond— | | | |
| (i) Distiller | The amount of tax on spirits produced during a period of 15 days. | $5,000 | $100,000 |
| (ii) Warehouseman: | | | |
| (A) General | The amount of tax on spirits and wines deposited in, stored on, and in transit to bonded premises. | 5,000 | 200,000 |
| (B) Limited to storage of spirits in packages to a total of not over 50,000 proof gallons. | .....do | 5,000 | 50,000 |
| (iii) Distiller and warehouseman. | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits and wines deposited, in stored on, and in transit to bonded premises. | 10,000 | 200,000 |
| (iv) Distiller and processor. | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises. | 10,000 | 200,000 |
| (v) Warehouseman and processor: | | | |
| (A) General | The amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises. | 10,000 | 250,000 |
| (B) Limited to storage of spirits or denatured spirits in packages to a total of not over 50,000 proof gallons, and processing of spirits or denatured spirits so stored. | .....do | 10,000 | 50,000 |
| (vi) Distiller, warehouseman, and processor. | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises. | 15,000 | 250,000 |
| (2) Adjacent bonded wine cellars— | | | |
| (i) Distiller and bonded wine cellar. | The sum of the amount of tax calculated in (a)(1)(i) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit. | 6,000 | 150,000 |
| (ii) Distiller, warehouseman and bonded wine cellar. | The sum of the amount of tax calculated in (a)(1)(iii) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit. | 11,000 | 250,000 |

PENAL SUM—Continued

| Type of bond | Basis | Minimum | Maximum |
|---|---|---|---|
| (iii) Distiller, processor and bonded wine cellar. | The sum of the amount of tax calculated in (a)(1)(iv) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit. | 11,000 | 250,000 |
| (iv) Distiller, warehouseman, processor and bonded wine cellar. | The sum of the amount of tax calculated in (a)(1)(vi) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit. | 16,000 | 300,000 |
| (b) Area operations bond: | The penal sum shall be calculated in accordance with the following table: | | |
| Total penal sums as determined under (a) | Requirements for penal sum of area operations bond | | |
| Not over $300,000 | 100 percent. | | |
| Over $300,000 but not over $600,000. | $300,000 plus 70 percent of excess over $300,000. | | |
| Over $600,000 but not over $1,000,000. | $510,000 plus 50 percent of excess over $600,000. | | |
| Over $1,000,000 but not over $2,000,000. | $710,000 plus 35 percent of excess over $1,000,000. | | |
| Over $2,000,000 | $1,060,000 plus 25 percent of excess over $2,000,000. | | |
| (c) Withdrawal bond: | | | |
| (1) One plant qualified for distilled spirits operations. | The amount of tax which, at any one time, is chargeable against such bond but has not been paid. | 1,000 | 1,000,000 |
| (2) Two or more plants in a region qualified for distilled spirits operations. | Sum of the penal sums for each plant calculated in (c)(1) of this section. | (1) | (2) |
| (d) Unit bond: | | | |
| (1) Both operations at a distilled spirits plant (and any adjacent bonded wine cellar) and withdrawals from the bonded premises of the same distilled spirits plant. | Total penal sums of (a) and (c)(1) of this section | 6,000 | 1,300,000 |
| (2) Both operations at two or more distilled spirits plants (and any adjacent bonded wine cellar) within the same region and withdrawals from the bonded premises of the same distilled spirits plants. | Total penal sums of (b) and (c)(2) of this section in lieu of which given. | (3) | (4) |

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

## § 19.246 Strengthening bonds.

In all cases when the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

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

NEW OR SUPERSEDING BONDS

### § 19.247 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, under the provisions of § 19.250, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business of operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1394, as amended (26 U.S.C. 5175, 5176, 5551); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

### § 19.248 New or superseding bond.

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

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

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

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

TERMINATION OF BONDS

### § 19.249 Termination of bonds.

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

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

(b) On approval of a superseding bond.

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

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

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

### § 19.250 Application of surety for relief from bond.

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

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

### § 19.251 Relief of surety from bond.

(a) *General.* The surety on an operations, withdrawal, or unit bond who

has filed application for relief from liability as provided in § 19.250 shall be relieved from liability under such bond as set forth in this section.

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

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

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

### § 19.252 Release of pledged securities.

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

(Ch. 290, Pub. L. 80–280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

## Subpart I—Construction, Equipment and Security

### § 19.271 Construction of buildings

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

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

### § 19.272 Equipment.

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

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

### § 19.273 Tanks.

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

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

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

(4) Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales and an additional suitable device shall be provided so that the volume of the contents can be quickly and accurately determined.

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

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

(7) If tanks or their fixed gauging devices are moved in location or position subsequent to original calibration, the

tanks shall not be used until recalibrated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## § 19.274 Pipelines.

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

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

(b) *Identification.* The appropriate TTB officer may require permanent pipelines for conveyance of spirits or denatured spirits to be color coded to provide identification.

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

## § 19.275 Continuous distilling system.

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

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

## § 19.276 Package scales.

Proprietors shall ensure the accuracy of scales used for weighing packages of spirits through tests conducted at intervals of not more than 6 months or whenever scales are adjusted or repaired. However, if the scales are not used during such period, the scales need only be tested prior to use. Scales used to weigh packages designed to

hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound.

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

### § 19.277 Measuring devices and proofing instruments.

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

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

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

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

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

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

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

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

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

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

### § 19.279 Office facilities.

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

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

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

### § 19.280 Signs.

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

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

### § 19.281 Security.

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

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

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

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

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

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

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

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

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

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

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

(iii) Body width of at least 2″;

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

(v) Tumbler with at least 5 pins; and

(vi) Lock or key contains no bitting data.

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

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

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

### § 19.282 Breaking Government locks.

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

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

## Subpart J—Production

### § 19.311 Notice by proprietor.

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file a notice on Form 5110.34 with the appropriate TTB officer, specifying the date on which he

desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form. The proprietor shall not commence or resume operations prior to the time specified in the notice.

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

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

### § 19.312 Receipt of materials.

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

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

### § 19.313 Use of materials in production of spirits.

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

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

### § 19.314 Removal of fermenting material.

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

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

### § 19.315 Removal or destruction of distilling material.

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

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

### § 19.316 Distillation.

The distillation of spirits shall be such that the spirits pass through a continuous system from the first still or other production equipment where access to the system would constitute

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

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

### § 19.317 Treatment during production.

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

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

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

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

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

### § 19.319 Production gauge.

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

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

(1) Spirits are weighed into bulk conveyances;

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

(3) Spirits are filled by weight into packages for immediate withdrawal from bonded premises and the details of the gauge for each package are recorded on a package gauge record according to § 19.769.

Transaction records shall be marked ''Withdrawal on Production Gauge.''

(c) *Tax not to be determined on production gauge.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and the containers are filled to capacity, and the tax is not to be determined on the basis of the production gauge, the gauge may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining the average content of each container; or

(2) Measuring volumetrically, in a calibrated tank, converting the wine

gallons determined into proof gallons, and determining therefrom the average content of each container; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by a device or method approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container. Rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer, or in the case of used cooperage, as determined by the proprietor.

(d) *Records of production gauge.* In computing the production gauge on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons shall be rounded to the nearest one-tenth and the average content so determined and the number of packages filled shall be used in computing the quantity produced. A separate gauge record, as prescribed in § 19.768, shall be prepared for each lot of packages filled (see § 19.593(b)) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. The gauge record shall indicate ''Deposit in storage'' or ''Deposit in processing.'' If spirits are to be transferred in bond, or withdrawn from bond, as authorized by this part, the production gauge shall be made on the form or record required by this part for the transaction (accompanied by a package gauge record, if required). Each transaction form or record and each package gauge record, if any, shall show:

(1) The real name (or basic operating name as provided in § 19.280) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual proof gallons in the container.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

### § 19.320 Identification of spirits.

At the time of production gauge, containers of spirits shall be identified by the proprietor in accordance with subpart R of this part. When the proprietor desires to enter spirits into bonded storage for subsequent packaging in wooden packages, he may identify such spirits with the specific designation to which they would be entitled if drawn into wooden packages, followed by the word ''Designate,'' for example, ''Bourbon Whisky Designate.''

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

### § 19.321 Entry.

Pursuant to the production gauge, the proprietor shall make appropriate entry for (a) deposit of the spirits on bonded premises for storage or processing, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, or (e) transfer of the spirits for redistillation. Entry for deposit on the bonded premises of the same plant premises shall be made on a gauge record, prepared according to § 19.768. When spirits are entered for deposit on another plant premises or are entered for withdrawal or redistillation, the applicable provisions of subpart K or subpart P of this part shall be followed.

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

### § 19.322 Distillates containing extraneous substances.

(a) *Use in production.* Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system prior to the production gauge for addition to fermenting or distilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of this paragraph shall be added promptly to the fermenting or distilling material.

(b) *Use at bonded wine cellar.* Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The gauge and removal of distillates to an adajcent

bonded wine cellar shall be in accordance with applicable provisions of subpart P of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent bonded wine cellar shall be in accordance with the provisions of 27 CFR part 240.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5201, 5222, 5373))

FORMULA

### § 19.324 Statement of production procedure or Form 5110.38.

(a) A statement of production procedure is required as provided in § 19.170 for the production of spirits from original sources or substances.

(b) As provided in 27 CFR 5.27, an approved formula on Form 5110.38 is required for the redistillation of spirits in the production account.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended, 1395, as amended (26 U.S.C. 5201, 5222, 5223, 5555))

CHEMICAL BY-PRODUCTS

### § 19.326 Spirits content of chemicals produced.

All chemicals produced, including chemical by-products of the spirits production system, shall be substantially free of spirits before being removed from bonded premises. Except as authorized by the appropriate TTB officer , the spirits content of such chemicals to be removed from bonded premises shall not exceed 10 percent by volume. Proprietors shall test chemicals for spirits content. Records of the tests will be maintained according to § 19.736.

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

### § 19.327 Disposition of chemicals.

Chemicals meeting the requirements in § 19.326 may be removed from bonded premises by pipeline or in such containers as the proprietor may desire. The quantities of such chemicals removed from bonded premises shall be determined by the proprietor and records of removals maintained according to § 19.736. Packages of such chemicals shall be appropriately marked by the proprietor to show the nature of the contents. Samples of such chemicals may be secured by appropriate TTB officers.

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

### § 19.328 Wash water.

Water used in washing chemicals to remove spirits therefrom may be run into a wash tank or a distilling material tank, or otherwise properly destroyed or disposed of on the premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201))

INVENTORIES

### § 19.329 Production inventories.

Each distiller shall take a physical inventory of the spirits and denatured spirits in tanks and other vessels in the production account at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The inventory shall show separately spirits and denatured spirits received for redistillation.

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

## Subpart K—Redistillation

### § 19.331 General.

Distillers or processors may redistill spirits, denatured spirits, articles, and spirits residues. Certain products may only be redistilled pursuant to an approved formula on Form 5110.38, as specified in 27 CFR 5.27.

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

### § 19.332 Receipts for redistillation.

Proprietors may receive and redistill spirits or denatured spirits which (a) have not been removed from bond; (b) have been withdrawn from bond on payment or determination of tax, and are eligible for return to bond as provided in subpart U of this part; (c) have been withdrawn from bond free of tax or without payment of tax, and are eligible for return to bond as provided in subpart U; or (d) have been abandoned to the United States and sold to the proprietor without the payment of tax.

Proprietors may also receive and redistill recovered denatured spirits and recovered articles returned under the provisions of § 19.683, and articles and spirits residues received under the provisions of § 19.684.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended 1370, as amended (26 U.S.C. 5201, 5223, 5243); sec. 807, Pub. L. 96–93 Stat. 285 (26 U.S.C. 5215))

### § 19.333 Redistillation.

Spirits shall not be redistilled at a proof lower than that prescribed for the class and type at which such spirits were originally produced, unless the redistilled spirits are to be used in wine production, to be used in the manufacture of gin or vodka, or to be designated as alcohol. Different kinds of spirits must be redistilled separately, or with distilling material of the same kind or type as that from which the spirits were originally produced. However, such restriction shall not apply when (a) brandy is redistilled into ''spirits-fruit'' or ''neutral spirits-fruit'' (not for use in wine production), (b) whiskey is distilled into ''spirits-grain'' or ''neutral spirits-grain'', (c) spirits originally distilled from different kinds of material are redistilled into ''spirits-mixed'' or ''neutral spirits-mixed'', or (d) the spirits are redistilled into alcohol. All spirits redistilled subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this part and 26 U.S.C. Chapter 51 (including liability for tax attaching to spirits at the time of production) applicable to the original production of spirits shall be applicable thereto, except that spirits recovered by redistillation of denatured spirits, articles, or spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. Nothing in this section shall be construed as affecting any provision of this chapter or of 27 CFR part 5 relating to the labeling of distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended (26 U.S.C. 5223); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

## Subpart L—Storage

### § 19.341 General.

Proprietors who are qualified as warehousemen as provided in this part, and who have otherwise complied with the requirements of this part for the storage of bulk distilled spirits and wines, shall conduct such operations pursuant to the provisions of this part.

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

### § 19.342 Receipt and storage of bulk spirits and wines.

(a) *Deposit.* All spirits entered for deposit in the storage account after production as provided in subpart J shall be deposited on the bonded premises designated in the entry for deposit. Spirits withdrawn from customs custody without payment of tax under the provisions of this part shall be received on the bonded premises to which so withdrawn and (unless to be immediately redistilled) shall be deposited on such premises. Spirits transferred in bond as provided in subpart P shall be deposited on the bonded premises designated on the transfer record.

(b) *Tanks.* If spirits or wines are being deposited in a partially filled tank in storage on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits or wines into and out of the tank isbeing measured by meters or other devices approved by the appropriate TTB officer which permit a determination of the quantity being deposited and the quantity being removed. Proprietors shall maintain records of spirits or wines in tanks in accordance with subpart W of this part.

(c) *Storage.* Spirits or wines may be held in the storage account in tanks or portable bulk containers on the bonded premises. When used for such storage, containers shall be kept so that they can be readily inspected or inventoried by appropriate TTB officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended, 1366, as amended, 1398, as amended (26 U.S.C. 5201, 5211, 5212, 5232, 5601); sec. 806(a), Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202); sec. 807(a), Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5231))

### § 19.343 Addition of oak chips to spirits and addition of caramel to brandy and rum.

Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling. When oak chips are added to packages, notation of such fact shall be made on all transaction records. Caramel possessing no material sweetening properties may be added to rum or brandy in packages or tanks.

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

FILLING AND CHANGING PACKAGES

### § 19.344 Filling of packages from tanks.

Spirits or wines may be drawn into packages from storage tanks on bonded premises. The spirits or wines in the tank shall be gauged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits or wines remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor in records required by §§ 19.740 and 19.768. The provisions of § 19.319 regarding the filling of packages and the taking of production gauges of packages shall be applicable to the filling and gauging of packages of spirits under this section.

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

### § 19.345 Change of packages.

Spirits or wines in storage may be transferred from one package to another. Except in the case of spirits of 190 degrees or more proof, each new package shall contain spirits from only one package. Packages shall be marked as provided in subpart R of this part. In the case of wines, each package shall bear the same marks as the package from which the wine was transferred.

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

MINGLING OR BLENDING OF SPIRITS

### § 19.346 Mingling or blending of spirits for further storage.

The following mingling or blending operations are permissible in the storage account of a warehouseman:

(a) *Mingling of spirits distilled at 190 degrees or more of proof.* Spirits distilled at 190 degrees or more of proof, whether or not subsequently reduced, may be mingled in storage.

(b) *Mingling of spirits distilled at less than 190 degrees of proof.* Spirits distilled at less than 190 degrees of proof may be mingled for withdrawal or further storage if—

(1) In the case of domestic spirits:

(i) Such spirits are of the same kind; and

(ii) Such spirits were produced in the same State.

(2) In the case of imported spirits:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded in the same foreign country and the duty was paid at the same rate.

(3) In the case of imported spirits which are recognized as distinctive products in 27 CFR part 5:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced by the same proprietor in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded by the same proprietor in the same foreign country and the duty was paid at the same rate.

(c) *Permissible blending of beverage rums or brandies.* Fruit brandies distilled from the same kind of fruit at not more than 170 degrees of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be blended with each other, or with any blend of such fruit brandies in storage. Rums may, for the sole purpose of perfecting them according to commercial standards, be blended with each other, or with any blend of rums.

(d) *Packaging of mingled spirits or blended rums and brandies.* Packaging after mingling or blending shall be conducted under the provisions of § 19.344. If so desired, the mingled or blended

spirits may be returned to the packages from which they were dumped for mingling or blending, or as many of such packages as are necessary.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended (26 U.S.C. 5201, 5214))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–259, 52 FR 41423, Oct. 28, 1987]

### § 19.347 Packages dumped for mingling.

When dumping packages of spirits of less than 190 degrees of proof for mingling in the storage account, the proprietor shall record such mingling on the tank record prescribed in § 19.742 covering such tank. When packages of spirits of 190 degrees or more of proof are to be mingled, the proprietor shall record such mingling in the tank summary record prescribed in § 19.743 for all tanks of spirits of 190 degrees or more of proof. Each package of spirits to be mingled under this subpart shall be examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, such package shall not be dumped until the appropriate TTB officer has been notified.

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

### § 19.348 Determining age of mingled spirits.

When spirits are mingled, the age of the spirits for the entire lot shall be the age of the youngest spirits contained in the lot.

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

### § 19.349 Mingled spirits or wines held in tanks.

When spirits of less than 190 degrees of proof or wines are mingled in a tank, the proprietor shall gauge the spirits or wines in the tank and record the mingling gauge on the tank record prescribed in § 19.742.

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

INVENTORIES

### § 19.353 Storage inventories.

Each warehouseman shall take a physical inventory of all spirits and wines held in the storage account in tanks and other vessels (except packages) at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The inventory shall separately identify spirits and wines. The results of the inventory shall be recorded in accordance with subpart W of this part.

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

## Subpart M—Processing Operations Other Than Denaturation and Manufacture of Articles

### § 19.371 General.

Proprietors, who are qualified as processors as provided in this part, shall conduct operations relating to the manufacture, treatment, mixing or bottling of distilled spirits on bonded premises pursuant to the provisions of this subpart. Proprietors, who conduct operations relating to the denaturation of spirits or the manufacture of articles on bonded premises, pursuant to the provisions of subpart N of this part, shall be qualified as processors.

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

RECEIPT AND USE OF SPIRITS, WINES AND ALCOHOLIC FLAVORING MATERIALS

### § 19.372 Receipt of spirits, wines and alcoholic flavoring materials for processing.

(a) Proprietors may receive into the processing account—

(1) Bulk spirits (i) from the production or storage account at the same plant, (ii) by transfer in bond from another distilled spirits plant, or (iii) on withdrawal from customs custody under 26 U.S.C. 5232;

(2) Wines (i) from the storage account at the same plant, or (ii) by transfer in bond from a bonded wine cellar or another distilled spirits plant;

(3) Spirits returned to bond under the provisions of 26 U.S.C. 5215; or

(4) Alcoholic flavoring materials.

(b) Spirits and wines received in bulk containers or conveyances shall be recorded as dumped on receipt, but may be retained in the containers or conveyances in which received until used. Spirits and wines received by pipeline shall be deposited in tanks, gauged by the proprietor, and recorded as dumped. Alcoholic flavoring materials may be retained in the containers in which received or may be transferred to another container if the proprietor marks or otherwise indicates thereon, the full identification of the original container, the date of receipt, and the quantity deposited. Alcoholic flavoring materials and nonalcoholic ingredients shall be considered dumped when mixed with spirits or wines. The proof gallon content of spirits, wines, and alcoholic flavoring materials shall be determined at the time of dumping.

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

### § 19.373 Use of spirits, wines and alcoholic flavoring materials.

A proprietor shall prepare a dump/batch record according to § 19.748 for spirits, wines, alcoholic flavoring materials, and nonalcoholic ingredients used in the manufacture of a distilled spirits product as follows:

(a) *Dump record.* When spirits, wines, or alcoholic flavoring materials are dumped for use in the manufacture of a distilled spirits product, and when spirits are dumped for redistillation in the processing account, the proprietor shall prepare a dump record.

(b) *Batch record.* The proprietor shall prepare a batch record to report:

(1) The dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a product manufactured under an approved formula;

(2) The use of spirits or wines previously dumped, reported on dump records and retained in tanks or receptacles; and

(3) Any combination of ingredients in paragraphs (b) (1) and (2) of this section used in preparing a batch of a product manufactured under an approved formula.

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

### § 19.374 Manufacture of nonbeverage products, intermediate products, or eligible flavors.

Distilled spirits and wine may be used for the manufacture of flavors or flavoring extracts of a nonbeverage nature as intermediate products to be used exclusively in the manufacture of other distilled spirits products on bonded premises. Nonbeverage products on which drawback will be claimed, as provided in 26 U.S.C. 5131–5134, may not be manufactured on bonded premises. Premises used for the manufacture of nonbeverage products on which drawback will be claimed must be separated from bonded premises. For purposes of computing an effective tax rate, flavors manufactured on either the bonded or general premises of a distilled spirits plant are not eligible flavors.

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

[T.D. ATF–297, 55 FR 18063, Apr. 30, 1990]

## OBSCURATION

### § 19.376 Determining obscuration.

Proprietors may determine the proof obsecuration as prescribed in 27 CFR § 30.32 of spirits to be bottled on the basis of a representative sample taken: (a) from a storage tank incident to the transfer of the spirits to the processing account, or (b) from a tank after the spirits have been dumped for processing, whether or not combined with other alcoholic ingredients. The obscuration shall be determined after the sample has been reduced to within one degree of the proof at which the spirits will be bottled. Only water may be added to a lot of spirits to be bottled for which the determination of proof obscuration is made from a sample under this section. The proof obscuration for products gauged pursuant to this section shall be frequently verified by testing samples taken from bottling tanks prior to commencement of bottling.

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

FORMULAS

### § 19.378 Formula requirements.

An approved formula on TTB Form 5110.38 must be secured for spirits for domestic use or export as provided in 27 CFR 5.26–5.27 before processors may blend, mix, purify, refine, compound or treat spirits in any manner which results in a change of character, composition, class or type of the spirits including redistillation as provided in § 19.331, and the production of gin or vodka by other than original and continuous distillation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1395, as amended (26 U.S.C. 5201, 5555))

BOTTLING, PACKAGING, AND REMOVAL OF PRODUCTS

### § 19.381 Removals from processing.

Spirits shall not be transferred from processing to the storage account. Processors may remove—

(a) Spirits upon tax determination or withdrawal under the provisions of 26 U.S.C. 5214 or 26 U.S.C. 7510;

(b) Spirits to the production account at the same plant for redistillation;

(c) Bulk spirits by transfer in bond to the production or the processing account at another distilled spirits plant for redistillation or further processing;

(d) Spirits or wines for authorized voluntary destruction; or

(e) Wines by transfer in bond to a bonded wine cellar or to another distilled spirits plant. However, wine may not be removed from the bonded premises of a distilled spirits plant for consumption or sale as wine. Spirits may be bottled and cased for removal. Spirits or wines may be removed in any approved bulk container, by pipeline or in bulk conveyances on compliance with the provisions of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1320, as amended, 1323, as amended, 1356, as amended, 1360, as amended, 1362, as amended, 1365, as amended, 1380, as amended (26 U.S.C. 5001, 5006, 5008, 5201, 5206, 5212, 5214, 5223, 5362))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–230, 51 FR 21748, June 16, 1986]

### § 19.382 Bottling tanks.

All spirits shall be bottled from tanks listed and certified as accurately calibrated in the notice of registration. However, the appropriate TTB officer may authorize bottling from original packages or special containers where it is impracticable to use a bottling tank. Bottlers desiring to bottle from packages or special containers shall file notice with the appropriate TTB officer. The notice shall show the necessity for the operations.

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

### § 19.383 Bottling tank gauge.

When a distilled spirits product is to be bottled or packaged, the proprietor shall gauge the product, on completion of any filtering, reduction, or other treatment, and prior to commencement of bottling or packaging. Any gauge made under this section shall be made at labeling or package marking proof while the product is in the tank from which it is to be bottled or packaged, and the details of the gauge shall be entered on the bottling and packaging record prescribed in § 19.749.

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

### § 19.384 Preparation of bottling or packaging record.

The proprietor shall prepare a record for each batch of spirits bottled or packaged according to the specifications in § 19.749.

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

### § 19.385 Labels to agree with contents of tanks and containers.

Labels affixed to containers shall agree in every respect with the spirits in the tanks from which the containers were filled. If they do not the proprietor shall relabel such spirits with a proper label. The proprietor's records shall be such that they will enable appropriate TTB officers to readily determine, by case or package serial number, which label was used on any given filled container.

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

### § 19.386 Alcohol content and fill.

(a) *General.* (1) At representative intervals during bottling operations, proprietors shall test and examine bottled spirits to determine whether those spirits agree in alcohol content and quantity (fill) with that stated on the label or bottle.

(2) If the appropriate TTB officer finds that a proprietor's test procedures do not protect the revenue and ensure label accuracy of the bottled product, the appropriate TTB officer may require corrective measures.

(b) *Variations in alcohol content and fill.* The proprietor shall rebottle, recondition, or relabel spirits if the bottle contents do not agree with the respective data on the label or bottle as to:

(1) Quantity (fill), except for such variation as may occur in filling conducted in compliance with good commercial practice with an overall objective of maintaining 100 percent fill for spirits bottled; and/or

(2) Alcohol content, subject to a normal drop in alcohol content which may occur during bottling operations not to exceed:

(i) 0.25 percent alcohol by volume for products containing solids in excess of 600 mg per 100 ml, or

(ii) 0.25 percent alcohol by volume for all spirits products bottled in 50 or 100 ml size bottles, or

(iii) 0.15 percent alcohol by volume for all other spirits and bottle sizes.

For example, a product with a solids content of less than 600 mg per 100 ml, labeled as containing 40 percent alcohol by volume and bottled in a 750 ml bottle, would be acceptable if the test for alcohol content found that it contained 39.85 percent alcohol by volume.

(c) *Records.* Proprietors shall record the results of all tests of alcohol content and quantity (fill) in the record required by § 19.750.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1394, as amended (26 U.S.C. 5201, 5301)

[51 FR 36395, Oct. 10, 1986, as amended by T.D. ATF–288, 54 FR 47770, Nov. 17, 1989]

### § 19.387 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on the bottling and packaging record covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 19.731.

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

### § 19.388 Cases.

(a) *General.* (1) On completion of bottling, the filled bottles with labels and properly affixed closures or other devices shall be placed in cases, and the cases shall be sealed.

(2) Each case of spirits filled shall be marked as prescribed by subpart R of this part before removal from such premises.

(b) *Unsealed cases.* (1) Cases may be temporarily retained on bonded premises without being sealed pending the affixing to bottles of any required labels, State stamps, or seals.

(2) Unsealed cases containing bottles without labels shall be marked in accordance with subpart R of this part, and segregated from other cases on bonded premises pending affixing of the labels, State stamps, or seals.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23951, June 7, 1985]

### § 19.389 Remnants.

Where incident to bottling there remain bottles less than the number necessary to fill a case, the bottles, after being affixed with closures or other devices and labeled, may be marked as a remnant case as provided in subpart R of this part or kept uncased on the bonded premises until spirits of the same kind are again bottled. Appropriate notation shall be made on the bottling and packaging record to cover the bottling and disposition of the remnant. If the remnant is subsequently used to complete the filling of a case, an accounting shall be made on the subsequent bottling and packaging record showing the use of the remnant

by adding the remnant gallonage to the quantity to be accounted for together with appropriate notation explaining the transactions.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

[T.D. ATF–206, 50 FR 23951, June 7, 1985]

### § 19.390 Filling packages.

Spirits may be drawn into packages from a tank (conforming to the requirements of § 19.273). Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on a package gauge record, according to § 19.769, and attach a copy of the package gauge record to each copy of the bottling and packaging record covering the product. Such packages shall be marked as prescribed by subpart R of this part.

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

### § 19.391 Removals by bulk conveyances or pipelines.

When the spirits in the processing accounts are to be removed in bulk conveyances or by pipeline, the proprietor shall record the filling of the conveyance or the transfer by pipeline on the bottling and packaging record. The spirits shall be removed from bonded premises in accordance with subpart P of this part. The cosignor shall forward to the consignee a statement of composition or a copy of any formula under which such spirits were processed for determining the proper use of the spirits, or for the labeling of the finished product. Bulk conveyances shall be marked as provided in subpart R of this part.

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

[T.D. ATF–206, 50 FR 23951, June 7, 1985]

### § 19.392 Rebottling.

When the spirits are dumped for rebottling, the proprietor shall prepare a bottling and packaging record, appropriately modified. If the spirits were originally bottled by another proprietor, a statement from the original bottler consenting to the rebottling must be secured by the proprietor.

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

### § 19.393 Reclosing and relabeling.

The proprietor may reclose or relabel distilled spirits, either before removal from bonded premises or after return thereto. The reclosing or relabeling of spirits returned to bonded premises shall be done immediately, and the spirits promptly removed. When spirits were originally bottled by another proprietor, the relabeling proprietor shall have on file a statement from the original bottler consenting to the relabeling. When spirits are relabeled, the proprietor shall have a certificate of label approval or certificate of exemption from label approval issued under 27 CFR part 5 for labels used on relabeled spirits. The proprietor shall prepare a separate record according to § 19.747 to cover the relabeling or reclosing. For spirits returned to bond under 26 U.S.C. 5215(c), the proprietor shall annotate such information on the record.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1358, as amended (26 U.S.C. 5201, 5205); sec. 807, Pub. L. 96–39, 93 Stat. 280 (26 U.S.C. 5215))

[T.D. ATF–206, 50 FR 23951, June 7, 1985]

### § 19.394 Bottled-in-bond spirits.

Spirits which are labeled as bottled-in-bond for domestic consumption shall meet the requirements in 27 CFR part 5 and shall bear a closure or other device as required by subpart T of this part.

(Approved by the Office of Management and Budget under control number 1512–0189)

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

[T.D. ATF–206, 50 FR 23951, June 7, 1985]

### § 19.395 Labels for export spirits.

All bottles containing spirits bottled for export shall have securely affixed thereto a label showing the following:

(a) Kind of spirits;

(b) Percent-alcohol-by-volume of the spirits;

(c) Net contents, unless the markings on the bottle indicate such contents; and

(d) The name (or, if desired, the trade name) of the bottler.

The bottler may place on the label any additional information that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the proprietor maintains on file an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the proprietor maintains a record of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The appropriate TTB officer may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information. With respect to kind of spirits, the appropriate TTB officer may waive the designation required by 27 CFR 5.22, only to the extent that the label need not bear the word ''diluted'' on distilled spirits bottled below the minimum bottling proof, provided this is in accordance with the rules of the countries to which such product is to be exported.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1374, as amended (26 U.S.C. 5201, 5301))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–237, 51 FR 36395, Oct. 10, 1986; T.D. ATF–283, 54 FR 11704, Mar. 22, 1989]

### § 19.396 Spirits removed for shipment to Puerto Rico.

Spirits removed for shipment to Puerto Rico with benefit of drawback or without payment of tax under the provisions of 27 CFR part 28 are subject to the provisions of 27 CFR part 5 in respect to labeling requirements and standards of fill for bottles.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.397 Spirits not originally intended for export.

Spirits manufactured, produced, bottled in bottles, packed in containers, or which are packaged in casks or other bulk containers in the United States, originally intended for domestic use may be exported with benefit of drawback or without payment of tax if the cases or bulk containers are marked as required by 27 CFR part 28. The proprietor may relabel the spirits to show any of the information provided for in § 19.395. When the proprietor desires to file a claim for drawback on spirits prepared for export under this section, the provisions of 27 CFR 28.195b shall be followed. When the proprietor desires to withdraw spirits without payment of tax, he shall file a notice in accordance with 27 CFR 28.92.

(Approved by the Office of Management and Budget under control number 1512–0189)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1358, as amended, 1362, as amended (26 U.S.C. 5062, 5205, 5214))

[T.D. ATF–206, 50 FR 23951, June 7, 1985, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.398 Alcohol.

(a) *Containers.* Subject to the provisions of subpart R of this part, alcohol for industrial use may be put in bottles, packages, or other containers. Proprietors shall comply with the provisions in subpart S of this part when alcohol for nonindustrial domestic use is bottled.

(b) *Closures.* Closures or other devices shall be affixed to containers of alcohol as provided in subpart T of this part.

(c) *Bottle labels.* All bottles of alcohol for industrial use shall have affixed thereto a label showing ''Alcohol'' and the name and plant number of the bottler. The bottler may place on the label additional information, if it is not inconsistent with the required information.

(d) *Case marks.* Each case of bottled alcohol shall bear the marks prescribed therefor in subpart R of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1369, as amended (26 U.S.C. 5201, 5206, 5235, 5301))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23952, June 7, 1985]

RECORDS

### § 19.400 Daily summary record of spirits bottled or packaged.

The proprietor shall maintain a separate daily summary record of spirits bottled or packaged as provided in § 19.751.

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

INVENTORIES

### § 19.401 Inventories of wines and bulk spirits (except in packages) in processing account.

Each proprietor shall take a physical inventory of wines and bulk spirits (except in packages) in the processing account at the close of each calendar quarter, and at such other time as the appropriate TTB officer may require. The results of the inventory shall be recorded in accordance with subpart W of this part.

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

### § 19.402 Inventories of bottled and packaged spirits.

(a) *Physical inventories.* (1) Physical inventories of bottled and packaged spirits in the processing account shall be taken for the return periods ending June 30 and December 31 of each year, and for other return periods as may be required by the appropriate TTB officer.

(2) Physical inventories may be taken within a period of a few days before or after June 30 or December 31 (or other dates approved by the appropriate TTB officer, if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of bottled or packaged spirits on hand in processing at the prescribed times.

(3) On approval of an application filed with the appropriate TTB officer, required physical inventories may be taken on dates other than June 30 and December 31 if the dates established for taking such inventories:

(i) Coincide with the end of a return period, and

(ii) Are approximately six months apart.

(4) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30 or December 31 inventory.

(b) *Waiver of physical inventory.* (1) The appropriate TTB officer, on receipt of an application, may relieve a proprietor of the requirement of taking the June 30 or December 31 physical inventory, (or other date approved under paragraph (a) of this section) if he finds that only one such inventory during any 24 consecutive return periods is necessary.

(2) The appropriate TTB officer may reimpose the requirement for the waived inventory if he finds that it is necessary for law enforcement or protection of the revenue.

(c) *Notification of physical inventory.* Whenever a physical inventory of bottled or packaged spirits is to be taken, the proprietor shall, at least 5 business days in advance, notify the appropriate TTB officer of the date and time he will take such inventory.

(d) *Supervision of physical inventories.* Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner, as the appropriate TTB officer may require.

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

## Subpart N—Denaturing Operations and Manufacture of Articles

### § 19.451 General.

Authorized proprietors who are qualified as processors may conduct denaturing operations or manufacture articles pursuant to the provisions of this

part. Proprietors shall not conduct denaturing operations or manufacture articles except as provided in this part. Records of denaturing operations and the manufacture of articles shall be maintained in accordance with § 19.752 and § 19.753.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178); sec. 807(a), Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

DENATURATION

### § 19.452 Formulas.

Spirits shall be denatured in accordance with formulas as authorized in 27 CFR part 21 or their alternatives. Denaturing materials shall be thoroughly mixed with the spirits being denatured.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242); sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

### § 19.453 Testing of denaturants.

(a) *Testing.* Proprietors shall ensure that the materials they receive for use in denaturing conform to the specifications prescribed in 27 CFR part 21. The appropriate TTB officer may require the testing of denaturants at any time.

(b) *Samples.* Samples of denaturants shall be taken in such manner as to represent a true composite of the total lot being sampled. When samples are tested by persons other than a proprietor, a copy of the analysis or a statement, signed by the chemist performing the test, shall be secured and filed by the proprietor for each test. Samples of denaturants may be taken by appropriate TTB officers at any time for testing by Government chemists.

(c) *Conformity.* When a denaturant does not conform to the specifications prescribed under 27 CFR part 21, the proprietor shall not use the material unless he treats or manipulates the denaturant to make it conform to such specifications. Such treated or manipulated denaturant shall again be tested.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

### § 19.454 Gauge for denaturation.

The proprietor shall gauge spirits before denaturation and after denaturation and record each gauge on the record of denaturation as prescribed in § 19.752(b). However, spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not again be gauged. Measurements of spirits and denaturants shall be made by volume, weight, by approved meter, or, when approved by the appropriate TTB officer , other devices or methods.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204); sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

### § 19.455 Dissolving of denaturants.

Denaturants which are difficult to dissolve in spirits at usual working temperatures, which are highly volatile, or which become solid at such usual temperatures may be liquefied or dissolved in a small quantity of spirits or water in advance of their use in the production of specially denatured spirits, pursuant to the prescribed formula, so long as the proof of the denatured spirits manufactured does not fall below the proof prescribed for the applicable formula in 27 CFR part 21. Any spirits used in dissolving denaturants and contained in the resulting solution shall be included as part of the total quantity of spirits denatured in each batch.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

### § 19.456 Adding denaturants.

Denaturants and spirits shall be mixed in packages, tanks, or bulk conveyances on bonded premises. The appropriate TTB officer may, on written application, authorize other methods of mixing denaturants and spirits if he deems such denaturation will not hinder effective administration of this part or jeopardize the revenue. If requested by the appropriate TTB officer, the proprietor shall submit a flow diagram of the intended process or method of adding denaturants.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

### § 19.457 Neutralizing denatured spirits.

Proprietors may add trace quantities of compounds such as caustics or acids

to certain formulas of denatured spirits to neutralize such spirits, if the intended effect of the denaturants is not reduced. Proprietors who neutralize denatured spirits must record, for each formula the kinds and quantities of compounds used, and the formula number of the denatured spirits neutralized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242); sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

### § 19.458 Restoration and redenaturation of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles received on bonded premises, as provided in subpart U of this part, for restoration (including redistillation, if necessary) and/or redenaturation may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. If the recovered or restored denatured spirits or recovered articles are to be redenatured and do not require the full amount of denaturants for redenaturation, a notation to that effect will be made on the record of denaturation required by § 19.752(b).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

### § 19.459 Mixing of denatured spirits.

(a) Denatured spirits produced under the same formula may be mixed on bonded premises.

(b) Denatured spirits of different formulas may be mixed on bonded premises for immediate redistillation at the same plant or at another plant in accordance with the provisions of subpart K of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242); sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

### § 19.460 Conversion of denatured alcohol formulas.

(a) *Conversion 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., 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.

(b) *Conversion to Formula No. 29.* Any specially denatured alcohol may be converted to specially denatured alcohol, Formula No. 29, by the addition of acetaldehyde or ethyl acetate, in accordance with the formulations prescribed in 27 CFR 21.56.

(c) *General rule.* In addition to the conversions provided in paragraphs (a) and (b) of this section, any specially denatured alcohol may be converted to another specially denatured alcohol formula, if the resultant alcohol-denaturant mixture contains only the alcohol and denaturant or denaturants in the proportions authorized in 27 CFR part 21 for the formula to which converted. Specially denatured alcohol which is converted under this paragraph may only be used as authorized in 27 CFR part 21 for the formula to which converted.

(d) *Conditions governing conversion and use.* The quantities of denaturants required for conversions authorized in paragraphs (a), (b) and (c) of this section shall be determined on the basis of the alcohol in the formulations. Specially denatured alcohol converted to Formula No. 29 may be used as authorized in 27 CFR 21.56(b) except that it shall not be used in the manufacture of vinegar, drugs, or medicinal chemicals, and the conditions governing use provided in 27 CFR 21.56(c) shall apply.

(e) *Conversion to other formulations.* Proprietors desiring to convert specially denatured alcohol other than as provided in paragraphs (a), (b), and (c) of this section shall obtain approval from the appropriate TTB officer prior to such conversion.

(f) *Conversion to completely denatured alcohol.* Any specially denatured alcohol not containing methanol or wood alcohol may be converted to any one of

the completely denatured alcohol formulas, prescribed in 27 CFR part 21, by adding the required denaturants.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985; T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 19.461 Receipt and storage of denatured spirits.

(a) *Deposit.* Denatured spirits produced, received in bond as provided in subpart P or returned to bonded premises as provided in subpart U of this part, shall be deposited on the bonded premises.

(b) *Tanks.* Proprietors shall maintain a record in accordance with § 19.752 for tanks in which denatured spirits are stored.

(c) *Storage.* Denatured spirits may be stored on bonded premises in any container into which denatured spirits may be filled on bonded premises. Such containers shall be so stored that they can be readily inspected by appropriate TTB officers and inventoried. The provisions of § 19.133 are applicable to storage of denatured spirits in portable containers. However, upon application, the appropriate TTB officer may authorize the proprietor to store packages and cases in any manner which safeguards the interests of the Government.

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

### § 19.462 Filling of containers from tanks.

Denatured spirits may be drawn into portable containers from tanks on bonded premises. The denatured spirits in the tanks shall be gauged prior to filling of the containers, and when only a portion of the contents of the tank is drawn into containers, the denatured spirits remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor. The provisions of paragraph (a) and (c) of § 19.319 shall be applicable to the filling and gauging of portable containers, and denatured spirits may be withdrawn from bonded premises for any lawful purpose on the filling gauge.

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

### § 19.463 Containers for denatured spirits.

Packaging of denatured spirits and the marking of portable containers of such denatured spirits shall be in accordance with requirements of subpart R of this part.

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

INVENTORIES

### § 19.464 Denatured spirits inventories.

Each proprietor shall take a physical inventory of all denatured spirits in the processing account at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The results of the inventory shall be recorded as provided in subpart W of this part.

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

ARTICLES

### § 19.471 Manufacture of articles.

Proprietors shall manufacture, label, mark, and dispose of articles as provided in 27 CFR part 20.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985]

## Subpart O—Spirits from Customs Custody

### § 19.481 General.

Spirits imported or brought into the United States in bulk containers may be withdrawn by proprietors from customs custody and transferred in such bulk containers or by pipeline without payment of tax to the bonded premises of their distilled spirits plant. Spirits received on bonded premises as provided in this section may be (a) redistilled or denatured only if 185 degrees or more of proof, and (b) withdrawn for any purpose authorized by 26 U.S.C.

Chapter 51, in the same manner as domestic spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1366, as amended (26 U.S.C. 5232))

### § 19.482 Age and fill date.

For the purpose of this part, the age and fill date for spirits that are imported or brought into the United States shall be:

(a) *Age.* The claimed age, which is supported by the documentation required in 27 CFR part 5.

(b) *Fill date.* The date that packages of spirits are released from customs custody or filled on bonded premises.

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

### § 19.483 Recording gauge.

(a) When packages of spirits are received from customs custody in the storage account, the proprietor shall use the last official gauge to compute and record on the deposit records prescribed in § 19.740 for each entry the average content of the packages being received which shall also provide the basis for entries on the package summary records prescribed in § 19.741. If the last official gauge indicates a substantial variation in the contents of the packages, the proprietor shall group the packages into lots according to their approximate contents, and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(b) When packages of spirits are received from customs custody in the processing account, the proprietor shall determine the proof gallons of spirits received in each package. The determination may be made by use of the last official gauge.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5232))

## IMPORTED SPIRITS

### § 19.484 Marks on containers of imported spirits.

(a) *General.* Each portable bulk container of spirits shall, when received on bonded premises under the provisions of § 19.481, or when filled on bonded premises, be marked with:

(1) The name of the importer;

(2) The country of origin;

(3) The kind of spirits;

(4) The package identification number as provided in § 19.593 or the package serial number as provided in § 19.594;

(5) If filled on bonded premises, the date of fill;

(6) The proof; and

(7) The proof gallons of spirits in the package. Package identification numbers or package serial numbers shall be preceded by the symbol ''IMP'' and any distinguishing prefix or suffix used as provided in § 19.594. The proprietor who receives packages of imported spirits under the provisions of § 19.481 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit records by the proprietor who receives the spirits.

(b) *Exception.* Proprietors are relieved from placing prescribed marks on packages when the spirits will be removed from the packages within 30 days of the date of receipt at the distilled spirits plant. Packages not dumped as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 19.595. The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit records, and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

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

## PUERTO RICAN AND VIRGIN ISLANDS SPIRITS

### § 19.485 Marks on containers of Puerto Rican and Virgin Islands spirits.

(a) *Packages received in bond.* (1) When packages of Puerto Rican spirits are received on the bonded premises of a

distilled spirits plant under the provisions of this subpart, the markings prescribed by 27 CFR 26.40, modified to show the serial number of the Form 5110.31 prefixed by ''Form 5110.31'', rather than the serial number and identification of the Form 487–B, shall be accepted in lieu of the markings prescribed in § 19.484. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages of spirits the date of fill as provided in § 19.482, and the words ''Puerto Rican'' or the abbreviation ''P.R.''.

(2) When packages of Virgin Islands spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by 27 CFR 26.206 that are on such packages shall be accepted in lieu of the markings prescribed in § 19.484. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages of spirits the date of fill as provided in § 19.482, and the words ''VIRGIN ISLANDS'' or the abbreviation ''V.I.''

(b) *Portable bulk containers.* Portable bulk containers of Puerto Rican or Virgin Islands spirits filled in TTB bond shall, in addition to the required marks prescribed in § 19.596, be marked to show the serial number of the approved formula under which produced, and with the words ''PUERTO RICAN'' or ''VIRGIN ISLANDS'' or the abbreviation thereof. Portable bulk containers containing spirits received in TTB bond under the provisions of this subpart shall, in addition to other required marks, be marked with the words ''PUERTO RICAN'' or ''VIRGIN ISLANDS'' or the abbreviation thereof.

(c) *Cases of bottled alcohol.* In addition to other mandatory marks prescribed by § 19.608 for cases of bottled alcohol, the words ''PUERTO RICAN'' or ''VIRGIN ISLANDS'', as appropriate, or the abbreviation ''P.R.'' or ''V.I.'' shall precede or follow the word ''alcohol'' on cases of alcohol from Puerto Rico or the Virgin Islands that are bottled and cased on bonded premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–459, 66 FR 38549, July 25, 2001]

### § 19.486 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(9), on imported spirits withdrawn from customs custody without payment of tax and thereafter withdrawn from bonded premises for beverage purposes, and the related provisons of § 19.518, are not applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

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

### § 19.487 Abatement, remission, credit or refund.

The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit or refund for loss or destruction of distilled spirits, shall apply to spirits brought into the United States from Puerto Rico or the Virgin Islands, with respect to the following:

(a) Spirits lost while in TTB bond;

(b) Voluntary destruction of spirits in bond;

(c) Spirits returned to bonded premises after withdrawal from bonded premises without payment of tax; and

(d) Spirits returned to bonded premises after withdrawal from bonded premises upon tax determination.

Claims relating to spirits lost in bond, in addition to the information required by § 19.41, shall show the name of the producer, and the serial number and date of the formula, where required, under which produced.

(Sec. 201, Pub. L. 95–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

## Subpart P—Transfer and Withdrawals

GENERAL

### § 19.501 Authority to withdraw.

Spirits, denatured spirits, and wines shall be removed from bonded premises as provided in this subpart. Spirits entered into bonded storage for subsequent packaging in wooden packages, as provided in § 19.320, which have not been drawn into such packages at the time of withdrawal from bond shall be redesignated to conform to the classes and types set out in subpart R of this part and in 27 CFR part 5.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended (26 U.S.C. 5201, 5212, 5214); sec. 807(a), Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

### § 19.502 Withdrawal of spirits on production or filling gauge.

When the production or filling gauge is made under the provisions of § 19.319(b), spirits may be withdrawn from bonded premises for any lawful purpose on the production or filling gauge. When the production or filling gauge is made under § 19.319(c), spirits may be withdrawn without payment of tax for export on the production or filling gauge. When spirits which are to be withdrawn on determination of tax on the original gauge are transferred in bond, all copies of the transfer record prescribed in § 19.770 shall be marked by the proprietor ''Withdrawal on Original Gauge''.

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

### § 19.503 Determination of tare.

When packages are to be individually gauged for withdrawal from bonded premises, actual tare shall be determined in accordance with 27 CFR part 30.

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

TRANSFERS BETWEEN BONDED PREMISES

### § 19.505 Authorized transfers.

(a) *Spirits.* Bulk spirits or denatured spirits may be transferred in bond between the bonded premises of plants qualified under 26 U.S.C. 5171 or 26 U.S.C. 5181, in accordance with §§ 19.506 and 19.998, respectively.

(b) *Wine.* (1) Wines may be transferred (i) from a bonded wine cellar to the bonded premises of a distilled spirits plant, (ii) from the bonded premises of a distilled spirits plant to a bonded wine cellar, or (iii) between the bonded premises of distilled spirits plants.

(2) Wines transferred to the bonded premises of a distilled spirits plant may be used in the manufacture of a distilled spirits product, and may not be removed from such bonded premises for consumption or sale as wine.

(c) *Alcohol for industrial purposes.* Alcohol bottled for industrial purposes, as provided in § 19.398, may be transferred between the bonded premises of distilled spirits plants in accordance with the procedures prescribed in §§ 19.506 through 19.510 for bulk distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5212, 5362); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18064, Apr. 30, 1990]

### § 19.506 Application to receive spirits in bond.

When a proprietor qualified under 26 U.S.C. 5171 desires to have spirits or denatured spirits transferred to him in bond which shall not include spirits withdrawn from customs custody under 26 U.S.C. 5232, he shall make application for such transfer to the appropriate TTB officer on Form 5100.16. Application to receive such spirits by transfer in bond shall not be approved unless the applicant's operations or unit bond is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits or denatured spirits to be transferred in addition to all other liabilities chargeable against such bond. The applicant shall deliver one of the approved copies of the application to the consignor proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5112))

### § 19.507 Termination of application.

A proprietor may terminate an approved application, Form 5100.16, at any time by

(a) Retrieving the consignor's copy, and

(b) Returning this copy, together with his own to the appropriate TTB officer for cancellation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1318, as amended (26 U.S.C. 5005))

### § 19.508 Consignor premises.

(a) *General.* (1) A transfer record shall be prepared according to § 19.770 by (i) the consignor proprietor of a distilled spirits plant (A) to cover the transfer of spirits or denatured spirits in bond to another distilled spirits plant, pursuant to an approved application on Form 5100.16, (B) to cover the transfer in bond of spirits or denatured spirits to an alcohol fuel plant, or (C) to cover the transfer of wine in bond to the bonded premises of a distilled spirits plant or bonded wine cellar; or (ii) the consignor proprietor of an alcohol fuel plant to cover the transfer of spirits to the bonded premises of a distilled spirits plant pursuant to an approved application on Form 5100.16. Except as otherwise provided herein, a transfer record shall be prepared for each conveyance. The proprietor shall also enter on the transfer record the serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits, or denatured spirits. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee (to accompany the shipment, if by truck).

(2) Spirits or denatured spirits produced from petroleum, natural gas, or coal may not be transferred to alcohol fuel plants qualified under 26 U.S.C. 5181.

(3) The consignor proprietor may cover on one transfer record all packages of spirits shipped by truck on the same day from his bonded premises to the bonded premises of another plant. In such case, the proprietor shall prepare a shipment and delivery order for each shipment, showing the number of packages, their package identification or serial numbers, the name of the producer, warehouseman, or processor, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated and shall consititute a complete record of the spirits so transferred in each truck each day. A copy of each shipping and delivery order shall be retained by the consignor. On completion of the lading of the last truck for the day, the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a secured conveyance, (2) when the individual packages have been securely sealed by the proprietor, or (3) when this requirement has been waived by the appropriate TTB officer on a finding that, because of the location of the premises and the proposed method of operation, there will be no jeopardy to the revenue. When packages are weighed at the time of shipment, the proprietor shall assign temporary serial numbers to the packages and show for each package its gross shipment weight on a package gauge record prepared according to § 19.769. A copy of the package gauge record shall accompany each copy of the transfer record.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits, denatured spirits, or wines and record the quantity so determined on the transfer record prescribed in § 19.770. Bulk conveyances of spirits or denatured spirits shall be secured by the proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

**§ 19.509 Reconsignment.**

Where, prior to or on arrival at the premises of a consignee, spirits, denatured spirits, or wines transferred in bond are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee. In such case, application to receive spirits or denatured spirits by transfer in bond (on Form 5100.16) shall have been previously approved for the consignee (not required in the case of wines or in the case of alcohol fuel plants receiving spirits or denatured spirits) and the bond of the proprietor to whom the spirits, denatured spirits, or wines are reconsigned shall cover such spirits, denatured spirits, or wines while in transit after reconsignment. Notice of cancellation of the shipment shall be made by the consignor to the consignee. Where the reconsignment is to another proprietor, a new transfer record shall be prepared and prominently marked with the word ''Reconsignment''.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

**§ 19.510 Consignee premises.**

(a) *General.* When spirits, denatured spirits, or wines are received by transfer in bond, the consignee proprietor shall examine each conveyance to determine whether the securing devices, if any, are intact upon arrival at his premises. If the securing devices are not intact, he shall immediately notify the appropriate TTB officer before removal of any spirits from the conveyance. The proprietor shall follow the provisions of subpart Q of this part to determine, record, and report losses, if any. After execution on the transfer record as prescribed in § 19.770 or Form 703, as appropriate, of his receipt of the shipment of spirits, denatured spirits, or wines, the consignee shall retain the original of the transfer record and any accompanying documents for his files, or dispose of Form 703 (in the case of wines from a bonded wine cellar), as provided in the instructions on the form. Retained copies of transfer records and Forms 703 shall become deposit records. Spirits which are produced at alcohol fuel plants shall be separately identified and accounted for as for fuel use, and may not be withdrawn, used, sold or otherwise disposed of for other than fuel use.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except: (1) when the transfer is made in a secured conveyance and the securing devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 19.508(b)(3). The proprietor shall record the receiving weight of each package on the accompanying package gauge record or on a list with temporary package serial numbers prepared by the consignor. A copy of such package gauge record or list shall remain with the original of the transfer record.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits, denatured spirits, or wines and record the gauge on the transfer record prescribed in § 19.770 or, in the case of wines received from a bonded wine cellar, on Form 703. The consignee shall ensure that each conveyance emptied has been thoroughly drained. The appropriate TTB officer may waive the requirement for gauging spirits, denatured spirits, or wines on receipt by pipeline if he finds that because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1380, as amended (26 U.S.C. 5204, 5362); sec. 807(a), Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

WITHDRAWALS ON DETERMINATION AND PAYMENT OF TAX

### § 19.515 Determination and payment of tax.

(a) *General.* Distilled spirits may be withdrawn from bonded premises on determination of tax in approved containers, or, to the contiguous premises of a manufacturer of nonbeverage products, by pipeline. All tax which is to be prepaid or deferred shall be determined prior to the physical removal of the spirits from bonded premises. The proprietor shall record the results of each tax determination on a record of tax determination as required by § 19.761.

(b) *Payment of tax.* The tax on the spirits shall be prepaid on Form 5000.24 before removal of the spirits from bonded premises unless the proprietor has furnished a withdrawal or unit bond to secure payment of the tax. Where such bond is in less than the maximum penal sum, the proprietor shall prepay the tax for any withdrawal which would cause the outstanding liability for tax to exceed the limits of coverage under the bond.

(Sec. 807, Pub. L. 96–39, 93 Stat. (26 U.S.C. 5213))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985]

### § 19.516 Bond account.

Where the proprietor has furnished a withdrawal or unit bond to cover the tax on spirits withdrawn on determination of tax, and such bond is in less than the maximum penal sum, he shall maintain an account of his bond and he shall charge the bond with the amount of liability incurred on each withdrawal on determination of tax. He shall credit the bond on payment of the amount of tax required to be remitted with a return and by authorized credits taken on a return. Where a bond in less than the maximum penal sum has been allocated among two or more plants, as provided in §§ 19.243 and 19.244, the proprietor shall maintain an account at each plant of that part of the penal sum allocated to that plant.

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

### § 19.517 Gauge for tax determination.

(a) *Packages.* When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of an individual package gauge, each package shall be gauged unless the tax is to be determined on the production or filling gauge. When packages are gauged, the proprietor shall prepare a package gauge record, according to § 19.769, and attach it to the record of tax determination prescribed in § 19.761.

(b) *Tanks.* Spirits in tanks which are to be withdrawn on determination of tax shall be gauged (by weighing and proofing) as prescribed in § 19.93, and the elements of the gauge shall be recorded on the record of tax determination or on a separate record of the gauge for attachment to the record of tax determination.

(c) *Cases.* Cases of distilled spirits to be withdrawn from bonded premises shall be tax determined on the basis of the contents thereof. The proof gallonage contained in cases shall be determined in accordance with 27 CFR part 30 and the method prescribed in § 19.722.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358 (26 U.S.C. 5204); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

### § 19.518 Imported spirits.

When spirits which have been imported for nonbeverage purposes and transferred to bonded premises pursuant to 26 U.S.C. 5232 are withdrawn for beverage purposes, there shall be paid, in addition to the internal revenue tax imposed by 26 U.S.C. 5001, a tax equal to the duty which would have been paid had the spirits been imported for beverage purposes, less the duty already paid thereon. The additional tax shall be referred to as ''additional tax—less duty'', and shall be paid at the time and in the manner that the basic tax is paid. The total quantity in proof gallons withdrawn shall be the basis of computing the tax at the rates indicated. The amount of the ''additional tax—less duty'' shall be stated separately and identified as such on the tax return.

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

### § 19.519 Methods of tax payment.

The tax on spirits shall be paid pursuant to a return on Form 5000.24, filed as provided in § 19.523 or § 19.524 and § 19.525. Except for remittance to be effected by electronic fund transfer under § 19.524, remittance for the tax in full shall accompany the return and may be in any form which the appropriate TTB officer is authorized to accept under the provisions of § 70.61 (Payment by check or money order) and which is acceptable to him. However, where a check or money order tendered in payment for taxes is not paid on presentment, or where the taxpayer is otherwise in default in payment, any remittance made during the period of such default, and until the appropriate TTB officer finds that the revenue will not be jeopardized by the acceptance of a personal check (if acceptable to the appropriate TTB officer), shall be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or a money order, as provided in § 70.61. Checks and money orders shall be made payable to ''Alcohol and Tobacco Tax and Trade Bureau''.

(Act of August 16, 1954, Ch. 736, 68A Stat. 777, as amended (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985; T.D. ATF–251, 52 FR 19313, May 22, 1987; T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

### § 19.520 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each return on Form 5000.24 filed pursuant to the provisions of this part. Failure of the taxpayer to include his employer identification number on Form 5000.24 may result in assertion and collection of the penalty specified in § 70.113 of this chapter.

(Sec. 1, Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985; T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

### § 19.521 Application for employer identification number.

(a) An employer identification number will be assigned pursuant to application on Form SS–4 filed by the taxpayer. Form SS–4 may be obtained from the director of the service center or from the district director.

(b) An application on Form SS–4 for an employer identification number shall be made by every taxpayer who files a return on Form 5000.24, but who prior to the filing of his first return on Form 5000.24 has neither secured an employer identification number nor made application therefor. Such application on Form SS–4 shall be filed on or before the seventh day after the date on which such first return on Form 5000.24 is filed.

(c) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a tax return under the provisions of this part.

(Sec. 1, Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985]

### § 19.522 Taxes to be collected by returns.

(a)(1) *Deferred payment of taxes.* The tax on spirits to be withdrawn from bond for deferred payment of tax shall be paid pursuant to a return on Form 5000.24, Excise Tax Return. The return, Form 5000.24, shall be executed and filed for each return period notwithstanding that no tax is due for payment for such period. The proprietor of each bonded premises shall include, for payment, on his return on Form 5000.24, the full amount of distilled spirits tax determined in respect of all spirits released for withdrawal from

the bonded premises on determination of tax during the period covered by the return (except spirits on which tax has been prepaid).

(2) *Return periods*—(i) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means the taxpayer was not liable for more than $50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

*Taxpayer.* A *taxpayer* is a person who is liable for excise tax imposed with respect to distilled spirits by 26 U.S.C. 5001 and 7652 under the same Employer Identification Number as defined in 26 CFR 301.7701–12.

(ii) *Semimonthly return period.* Except in the case of a taxpayer who qualifies for, and chooses to use, quarterly return periods as provided in paragraph (b)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods shall run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in § 19.523(c).

(iii) *Quarterly return period.* Effective January 1, 2006, a taxpayer who reasonably expects to be liable for not more than $50,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year, and who was liable for not more than $50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing of the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds $50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(b) *Conditions under which deferral is denied.* Notwithstanding the posting of a withdrawal or unit bond by the proprietor, the tax shall be prepaid as provided in paragraph (c) of this section—

(1) Where a proprietor has defaulted in any payment of tax under this section, during the period of such default and until the appropriate TTB officer finds that the revenue will not be jeopardized by deferral; or

(2) Where a proprietor, who, after having been notified of his deficiency by the appropriate TTB officer (i) fails to maintain records required by this part to substantiate the correctness of his tax returns or (ii) otherwise fails to comply with any provisions of this part, is so notified by the appropriate TTB officer.

(c) *Prepaid taxes.* The tax on distilled spirits shall be paid pursuant to a prepayment return on Form 5000.24 in all cases where the tax is required to be paid before the spirits are withdrawn from bond. A single prepayment return on Form 5000.24 may cover one or more transactions. The proprietor shall note the serial number of the Form 5000.24 and the date and time such prepayment return was filed on the individual record of tax determination.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1395, as amended (26 U.S.C. 5061, 5555))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51387, Dec. 17, 1985; T.D. ATF–365 60 FR 33668, June 28, 1995; T.D. TTB–41, 71 FR 5601, Feb. 2, 2006]

### § 19.523 Time for filing returns.

(a) *Payment pursuant to semimonthly return.* Except when payment is pursuant to a quarterly return as provided in paragraph (d) of this section, where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, the proprietor shall file a semimonthly tax return covering such spirits on Form 5000.24, and remittance, as required by § 19.524 or § 19.525, not later than the 14th day after the last day of the return period, except as provided by paragraph (c) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday,

Sunday, or legal holiday, except as provided by paragraph (c)(3) of this section.

(b) *Payment pursuant to prepayment return.* If the proprietor of a distilled spirits plant desires to withdraw spirits from bonded premises on determination of tax and does not have on file an approved withdrawal or unit bond of sufficient penal sum to cover the withdrawal, if there is default by him in any payment of tax under this part, or the proprietor is notified by the appropriate TTB officer as provided in § 19.522(b)(2), the proprietor shall not remove the spirits from the bonded premises until the tax thereon has been paid. To pay the tax, the proprietor of the bonded premises shall file a prepayment return on Form 5000.24, and remittance as required by § 19.524 or § 19.525, before removal of the spirits.

(c) *Special rule for taxes due for the month of September (effective after December 31, 1994).* (1)(i) Except as provided in paragraph (c)(1)(ii) of this section, the second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16–26, no later than September 29. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 19.524, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16–25, no later than September 28. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 26–30, no later than October 14.

(2) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (c)(1)(i) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (c)(1)(ii) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(3) *Last day for payment.* If the required taxpayment due date for the periods September 16–25 or September 16–26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(4) *Example. Payment of tax for the month of September.* (i) *Facts.* X, a distilled spirits plant proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of $30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of $45,000, and for the period September 27–30, X incurred tax liability in the amount of $2,000.

(ii) *Payment requirement.* X's payment of tax in the amount of $30,000 for the first semimonthly period of September is due no later than September 29 (§ 19.522(a)). X's payment of tax for the period September 16–26 is also due no later than September 29 (§ 19.523(c)(1)(i)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16–26 (§ 19.523(c)(2)). Under the safe harbor rule, X's payment of tax must equal $21,990.00, 11/15ths of the tax liability incurred during the first semimonthly period of September. Additionally, X's payment of tax in the amount of $2,000 for the period September 27–30 must be paid no later than October 14 (§ 19.523(c)(1)(i)). X must also pay the underpayment of tax, $23,010.00,

for the period September 16–26, no later than October 14 (§ 19.523(c)(2)).

(d) *Payment pursuant to quarterly return.* Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, and the proprietor uses quarterly return periods as provided in § 19.522(b)(3), the proprietor shall file a quarterly tax return covering such spirits on Form 5000.24, and remittance, as required by § 19.525, not later than the 14th day after the last day of the quarterly return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(Approved by the Office of Management and Budget under control number 1512–0467)

[T.D. ATF–219, 50 FR 51387, Dec. 17, 1985, as amended by T.D. ATF–246, 52 FR 668, Jan. 8, 1987; T.D. ATF–365, 60 FR 33668, June 28, 1995; T.D. TTB–41, 71 FR 5602, Feb. 2, 2006]

### § 19.524 Payment of tax by electronic fund transfer.

(a) *General.* (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT) of distilled spirits taxes during the succeeding calendar year. Payment of distilled spirits taxes by cash, check, or money order, as described in § 19.525, is not authorized for a taxpayer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including distilled spirits products brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(3) A taxpayer who is required by this section to make remittances by EFT, shall make a separate EFT remittance and file a separate return, TTB F 5000.24, for each distilled spirits plant from which spirits are withdrawn upon determination of tax.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in distilled spirits taxes during the previous calendar year, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall notify the appropriate TTB officer. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer's bank to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account by no later than the close of business on the last day for filing the return, prescribed in § 19.523. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in distilled spirits taxes during the preceding calendar year, combining tax liabilities incurred under this part and parts 26

and 27 of this chapter, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 19.525. Upon filing the first return on which the taxpayer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the taxpayer shall notify the appropriate TTB officer by attaching a written notification to TTB F 5000.24, stating that no taxes are due by EFT, because the tax liability during the preceding calendar year was less than five million dollars, and that the remittance shall be filed with the tax return.

(c) *Remittance.* (1) Each taxpayer shall show on the return, TTB F 5000.24, information about remitting the tax for that return by EFT and shall file the return with TTB, in accordance with the instructions on TTB F 5000.24.

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer shall be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, any transfer data record furnished to the taxpayer, through normal banking procedures, will serve as the record of payment, and shall be retained as part of required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer an TTB Procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985; 50 FR 23949, June 7, 1985, as amended by T.D. ATF–219, 50 FR 51388, Dec. 17, 1985; T.D. ATF–245, 52 FR 532, Jan. 7, 1987; T.D. ATF–251, 52 FR 19313, May 22, 1987; T.D. ATF–262, 52 FR 47559, Dec. 15, 1987; T.D. ATF–459, 66 FR 38549, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002]

### § 19.525 Manner of filing returns.

(a) Each return on Form 5000.24 shall be filed with TTB, in accordance with the instructions on the form. If the return and remittance are to be filed with a designated appropriate TTB officer, the proprietor shall file the return and remittance no later than 2:00 p.m. on the date the return is required to be filed.

(b) When the proprietor sends the return on Form 5000.24 by U.S. mail, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the remittance. When the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the proprietor. When the proprietor sends the return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the return and, if accompanied, of the remittance.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–219, 50 FR 51388, Dec. 17, 1985; T.D. ATF–251, 52 FR 19313, May 22, 1987]

### § 19.526 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been paid or determined. A record of tax determination shall be prepared

for each removal of spirits as provided in § 19.76.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5205); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

WITHDRAWAL OF SPIRITS WITHOUT PAYMENT OF TAX

### § 19.531 Authorized withdrawals without payment of tax.

Spirits may be withdrawn from bonded premises, without payment of tax for:

(a) Export, as authorized under 26 U.S.C. 5214(a)(4);

(b) Transfer to customs manufacturing bonded warehouses, as authorized under 19 U.S.C. 1311;

(c) Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c;

(d) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309;

(e) Transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9);

(f) Use in wine production, as authorized under 26 U.S.C. 5373;

(g) Transfer to any university, college of learning, or institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a);

(h) Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10). The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in 27 CFR part 28; or,

(i) Use in the production on bonded wine cellar premises of wine and wine products which will be rendered unfit for beverage use, as authorized by 26 U.S.C. 5362(d). The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in part 252 of this chapter.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1375, as amended, 1382, as amended (26 U.S.C. 5214, 5312, 5373); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066); sec. 455, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5214))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–227, 51 FR 13216, Apr. 18, 1986; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.532 Withdrawals of spirits for use in wine production.

Wine spirits may be withdrawn to a bonded wine cellar without payment of tax for use in wine production. When wine spirits are consigned, the proprietor shall prepare a transfer record according to § 19.770. Unless wine spirits in packages are to be withdrawn on the production or filling gauge, the proprietor shall prepare a package gauge record according to § 19.769 and attach it to the transfer record.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5373))

### § 19.533 Withdrawal of spirits without payment of tax for experimental or research use.

Any scientific university, college of learning, or institution of scientific research (which has qualified under the provisions of § 19.71 to withdraw spirits from a bonded premises), desiring to withdraw a specific quantity of spirits for experimental or research use, shall file a letterhead application with the appropriate TTB officer of the region in which the applicant's premises are located.

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

### § 19.534 Withdrawals of spirits for use in production of nonbeverage wine and nonbeverage wine products.

Spirits withdrawn without payment of tax may be removed, pursuant to the provisions of part 24 of this chapter, to a bonded wine cellar for use in the production of nonbeverage wine and nonbeverage wine products. (Sec. 455, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5214))

[T.D. 372, 61 FR 20724, May 8, 1996]

WITHDRAWAL OF SPIRITS FREE OF TAX

### § 19.536 Authorized withdrawals free of tax.

Pursuant to the regulations in this chapter, spirits may be withdrawn from bonded premises free of tax—

(a) On receipt of a 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);

(c) On receipt of a valid permit, issued under this part, to procure spirits by and for the use of the United States, under the provisions of 26 U.S.C. 7510, for purposes other than as provided in paragraph (b) of this section and 26 U.S.C. 5214(a)(2);

(d) After being specially denatured—

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

(2) For export;

(e) After being completely denatured, for any lawful purpose;

(f) When contained in an article.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9160, Mar. 6, 1985]

### § 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))

[T.D. ATF–199, 50 FR 9160, Mar. 6, 1985]

### § 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 Administrator. 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 27 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))

[T.D. T.D. ATF–199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF–479, 67 FR 30798, May 8, 2002]

### § 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 appropriate TTB officer. 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))

[T.D. ATF–199, 50 FR 9161, Mar. 6, 1985]

### § 19.540 Removal of denatured spirits and articles.

(a) *Specially denatured spirits.* (1) Specially denatured spirits withdrawn free of tax under § 19.536(d) shall be shipped in approved containers to the consignee designated on the permit. If such spirits are for export or for transfer to a foreign-trade zone for export or for storage pending exportation, they shall be withdrawn under the applicable provisions of part 28 of this chapter.

(2) Domestic specially denatured spirits may be transferred to qualified users located in a foreign-trade zone for use in the manufacture of articles under the applicable provisions of part 20 of this chapter. The alcohol, as defined in 27 CFR part 20, in domestic specially denatured spirits must be produced entirely in the United States, including Puerto Rico.

(3) When specially denatured spirits are shipped 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 appropriate TTB officer .

(A) Proprietors shall maintain records to ensure that samples of specially denatured spirits dispensed to a nonpermittee 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 appropriate TTB officer 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)

(48 Stat. 999, as amended, 72 Stat. 1362, as amended, 1370, as amended (19 U.S.C. 81c; 26 U.S.C. 5214, 5271))

[T.D. ATF–199, 50 FR 9161, Mar. 1, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF–274, 53 FR 25156, July 5, 1988; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 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))

[T.D. ATF–199, 50 FR 9161, Mar. 6, 1985]

## Subpart Q—Losses and Shortages

LOSSES

### § 19.561 Losses in general.

(a) *Allowable losses.* Except as provided in paragraph (b) of this section, tax shall not be collected or, if paid, the tax shall be refunded when spirits, denatured spirits or wines are lost or destroyed while in bond.

(b) *Exceptions.* Tax shall be collected in the case of:

(1) Theft, unless the appropriate TTB officer finds that the theft occurred without connivance, collusion, fraud or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(2) Voluntary destruction carried out other than as provided in subpart U of this part;

(3) Unexplained shortage of bottled spirits.

(c) *Burden of proof.* When it appears that a loss occurred due to theft, the burden of proof shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the appropriate TTB officer that the loss did not result from connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(d) *Claims* for losses allowable under this section shall be filed in accordance with applicable provisions of subpart C of this part.

(e) *Limitations.* The abatement, remission, credit, or refund of taxes on spirits, denatured spirits, or wines lost by theft shall be allowed only to the extent that the claimant is not indemnified against or recompensed for the taxes.

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

### § 19.562 Determination of losses in bond.

(a) *General.* (1) Losses (whether by theft, unauthorized voluntary destruction, or otherwise) of spirits, denatured spirits, and wines shall be determined by the proprietor:

(i) Each time a tank or bulk conveyance is emptied;

(ii) On the basis of required physical inventories; and

(iii) Upon discovery of accidents or unusual variations in gauges.

(2) When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss shall be taxpaid or the container shall be segregated (as necessary) with the loss reported promptly to the appropriate TTB officer.

(3) In any instance in which spirits, denatured spirits or wines are lost or destroyed in bond, whether by theft, unauthorized voluntary destruction, or otherwise, the appropriate TTB officer may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with § 19.41.

(b) *Missing packages.* Whenever any packages of spirits, denatured spirits, or wine recorded as deposited on bonded premises cannot be located or otherwise accounted for, the proprietor shall promptly report such fact to the appropriate TTB officer, and the proprietor shall either pay the tax on the lost spirits, denatured spirits, or wines, or file a claim with respect thereto under the provisions of § 19.41.

(c) *Tampering, material deficiency, or loss of proof.* When it is found that spirits, denatured spirits, or wines in a container have been tampered with, or when a material deficiency in the recorded quantity of such products is found without evidence of loss by leakage or casualty, or when there is a loss of proof of such products not attributable to variations in gauging, the proprietor shall segregate the container (as necessary) and shall promptly report such fact to the appropriate TTB officer, unless the proprietor acknowledges liability for the tax on the loss and elects to pay the tax on the quantity lost.

(d) *Excessive in-transit losses.* Losses of spirits, denatured spirits, or wines received in bond in bulk conveyances which exceed one percent of the quantity of a product consigned shall be considered as excessive in-transit losses. However, in the case of transcontinental transfers in bond of wine, only losses in excess of two percent of the quantity of wine consigned shall be considered as excessive in-transit losses. The proprietor shall promptly report all such excessive in-transit losses to the appropriate TTB officer.

(e) *Storage account loss limitation.* When the quantity of spirits lost from all the storage tanks and bulk conveyances exceeds 1½ percent of the total quantity contained in the tanks and bulk conveyances during the calendar quarter, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 19.41 and is allowed by the appropriate TTB officer.

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

### § 19.563 Loss of spirits from packages.

(a) *Original quantity.* Where there is evidence satisfactory to the appropriate TTB officer that any loss of spirits (including denatured spirits) from any package deposited on bonded premises is due to theft (except where the appropriate TTB officer has made the finding provided for in § 19.561(b)) or is due to unauthorized voluntary destruction, the appropriate TTB officer may require the immediate tax payment of the quantity of spirits so lost, except where the extent of any loss from

causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the appropriate TTB officer, the appropriate TTB officer may credit the tax on the loss so established against the tax on the original quantity.

(b) *Alternative method.* Where there is evidence satisfactory to the appropriate TTB officer that there has been access, other than as authorized by law, to the contents of packages entered for deposit on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the appropriate TTB officer may (in lieu of the procedure prescribed in paragraph (a) of this section) assess an amount equal to the tax on 5 proof gallons of spirits on each of the total number of such packages as determined by him.

(c) *Applicability to packages filled after entry.* The provisions of this section apply to spirits (including denatured spirits) which are filled into casks or packages as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from tanks, mingling, or otherwise. The quantity filled into those casks or packages is considered to be the original quantity for the purpose of this section in the case of loss from those casks or packages.

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

### § 19.564 Losses after tax determination.

(a) *Applicability.* Pursuant to a claim, the tax on spirits which are lost after determination of tax and before completion of physical removal from bonded premises, may be abated or remitted or refunded or credited without interest to the proprietor of the bonded premises where the loss occurred.

(b) *Conditions.* (1) Claims for losses under this section shall be filed in accordance with subpart C of this part.

(2) This section shall not apply if the tax would have been collectible by reason of 26 U.S.C. 5008(a)(1) if the loss occurred on bonded premises before determination of tax.

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

SHORTAGES

### § 19.565 Shortages of bottled distilled spirits.

(a) *Determination of shortage.* Unexplained shortages shall be determined by comparing the spirits recorded to be on hand with the results of the quantitative determination of the spirits found to be on hand by actual count during the physical inventory required by § 19.402. When the recorded quantity is greater than the quantity determined by the physical inventory, the difference is an unexplained shortage. The records shall be adjusted to reflect the physical inventory.

(b) *Payment of tax on shortage.* An unexplained shortage of bottled distilled spirits shall be taxpaid:

(1) Immediately on a prepayment return on Form 5000.24, or

(2) On the return on Form 5000.24 for the return period during which the shortage was ascertained.

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

[T.D. TTB–41, 71 FR 5602, Feb. 2, 2006]

## Subpart R—Containers and Marks

CONTAINERS

### § 19.581 Authorized containers.

(a) *General.* Proprietors shall use for any purpose of containing, storing, transferring, conveying, removing, or withdrawing spirits or denatured spirits under this part only containers which are authorized by, or under the provisions of this part for such purpose, and a container so authorized will be deemed to be an approved container for such purpose. Except where stated otherwise, the provisions of part 20 of this chapter apply to containers used for containing, storing and shipping of articles, and the provisions of 27 CFR part 24 apply to containers used for storage or transfer of wine. Except for liquor bottles, this subpart does not regulate or prohibit the use on plant premises of any container for purposes

other than containing alcoholic substances.

(b) *Alternate containers.* In addition to the types of containers specifically authorized by this part for a particular purpose, a container of another type may be authorized for that purpose by the appropriate TTB officer on a finding by him that the use of such container will afford protection to the revenue equal to or greater than that afforded by the containers specifically authorized by this part, and that the use will not cause administrative difficulty. If another container is so authorized by the appropriate TTB officer, he shall prescribe the detail and manner in which such container shall be constructed, protected, and marked, consistent with the provisions of this part and the extent of such use. Similarly, where a container authorized for a particular purpose is required by this subpart to be made of specified materials, the appropriate TTB officer may authorize the use of containers made of other materials which he has found to be suitable for the intended purpose.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5214, 5301); sec. 805, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5002); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; T.D. 372, 61 FR 20724, May 8, 1996]

## § 19.582 Spirits for nonindustrial use.

(a) *Determination of use.* Containers of spirits of a capacity of 1 gallon (3.875 liters) or less are considered to be for nonindustrial use, except for those which contain:

(1) Anhydrous alcohol; or

(2) Alcohol which may be withdrawn from bond free of tax.

(b) *Containers.* If not inconsistent with the provisions in 27 CFR part 5, spirits for nonindustrial use may be filled into:

(1) Packages, or

(2) Other containers which are filled during processing operations and contain not more than 10 gallons.

(c) *Bottles and labels.* The provisions of subpart S of this part govern the liquor bottles and labels to be used in bottling spirits for nonindustrial domestic use.

(d) *Cases.* Spirits for nonindustrial use in containers with a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage. Such cases shall not be transferred in bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5301))

## § 19.583 Spirits for industrial use.

(a) *Containers.* (1) Denatured spirits may be filled into glass or metal containers of a capacity not greater than 10 gallons.

(2) Other spirits for industrial use may be filled into

(i) Containers of 1 gallon or less; or

(ii) Glass or metal containers of a capacity of 1 gallon but not greater than 10 gallons.

(b) *Encased containers.* Unlabeled containers holding from 1 to 10 gallons of denatured spirits and spirits of 190 degree proof or more for industrial use may be encased in wood, fiberboard, or similar material if:

(1) The cases are constructed so that the surface, including the opening, of the container is not exposed;

(2) Required marks are applied to an exterior surface of the case;

(3) The case is constructed so that the portion containing marks will remain attached to the inner container until all the contents have been removed; and

(4) A statement reading ''Do not remove inner container until emptied'' or of similar meaning is placed on the portion of the case bearing the marks.

(c) *Cases.* Except for encased containers, containers for denatured spirits and spirits for industrial use of a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage.

(d) *Articles.* Articles shall be packaged and labeled in accordance with the provisions of 27 CFR part 20.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.584 Packages.

Packages may be used on bonded premises for original entry of spirits, and for packaging from tanks, storing, transferring in bond, and withdrawing from bonded premises of spirits and denatured spirits. Packages shall be constructed so as to be capable of secure closure.

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

### § 19.585 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 19.588 may be used on bonded premises for original entry of spirits, and for filling from tanks, storing, transferring in bond, and withdrawing taxpaid spirits and denatured spirits. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for use of the United States, or if the appropriate TTB officer has authorized the proprietor, as provided in § 19.581, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 19.531 (a), (b), (c), (e), and (f).

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

### § 19.586 Tanks.

Tanks which conform to the requirements of § 19.273 may be used on bonded premises as containers for distilled spirits, denatured spirits, articles, and wines.

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

### § 19.587 Pipelines.

Pursuant to the provisions of this part, pipelines which conform to the requirements of § 19.274 may be used for (a) the conveyance on bonded premises of spirits, denatured spirits, articles, and wines, and (b) the conveyance to and from bonded premises of spirits, denatured spirits, articles, and wines.

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

### § 19.588 Construction of bulk conveyances.

(a) *Construction*. All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two or more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) A route board, or other suitable device, for carrying required marks or brands shall be provided on each bulk conveyance.

(6) Calibrated charts showing the capacity of each compartment in wine gallons for each inch of depth, shall be available for use in measuring the contents of each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility*. Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits, denatured spirits, or wines, and he shall refrain from, or discontinue, using any such conveyance found by him or by an appropriate TTB officer to be unsuitable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended (26 U.S.C. 5206, 5212, 5214); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.589 Restrictions on disposition of bulk spirits.

(a) *For nonindustrial use*. Spirits for nonindustrial use may be sold or disposed of in containers holding more than 1 wine gallon only to the persons

and for the purposes set forth in 27 CFR part 3.

(b) *For industrial use.* Shipment or delivery of spirits (other than alcohol or neutral spirits) withdrawn from bond in containers holding more than 1 wine gallon for industrial use shall, as provided in 27 CFR part 3, be made directly to the user of the spirits.

(Sec. 201, Pub. L. 85–895, 72 Stat. 1356, as amended (26 U.S.C. 5201))

MARKS

### § 19.592 General.

Proprietors shall mark, identify, and label all containers of spirits or denatured spirits as provided by this part. Containers of wine shall be marked in accordance with 27 CFR part 24. Containers of articles shall be marked in accordance with 27 CFR part 211.

(Sec. 201 Pub. L. 85–859, 72 Stat. 1358, as amended, 1360, as amended (26 U.S.C. 5204, 5206))

[T.D. ATF–206, 50 FR 23952, June 7, 1985, as amended by T.D. 372, 61 FR 20724, May 8, 1996]

### § 19.593 Package identification numbers in production and storage.

(a) *General.* Packages of spirits filled during production or storage operations after December 31, 1979, shall be marked with a lot identification representing the date the package is filled, and consisting, in the order shown, as follows:

(1) The last two digits of the calendar year;

(2) An alphabetical designation from ''A'' through ''L'', representing January through December, in that order;

(3) The digits corresponding to the day of the month; and

(4) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix, in alphabetical order, with ''A'' representing the second lot, ''B'' representing the third lot, and so forth.

The first three lots filled into packages on January 2, 1980, would be identified as ''80A02'', ''80A02A'', ''80A02B''.

(b) *Packages constituting a lot.* Packages of spirits received from customs custody or filled during any one day shall be given the same lot identification subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantity by weight or other method provided in § 19.319;

(2) They are filled with spirits of the same kind and same proof;

(3) They are filled with spirits which are mingled in accordance with § 19.346; and

(4) They are filled with imported spirits, Puerto Rican spirits, or Virgin Islands spirits, as applicable. Any remnant package shall itself constitute a lot.

(c) *Serial numbers.* The appropriate TTB officer may require serial numbers on packages of spirits within the same lot in conjunction with the lot identification, at the time of filling, receipt on bonded premises, or withdrawal from bond. Proprietors shall assign temporary serial numbers to packages for control purposes when they are transferred in bond in an unsecured conveyance or gauged after being tampered within the storage account.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

### § 19.594 Numbering of packages and cases in processing.

(a) *General.* Packages of spirits and denatured spirits filled during processing operations and cases containing bottles or other containers of spirits and denatured spirits shall, when filled, be consecutively numbered in a separate series by the proprietor commencing with ''1'' in each series of serial numbers, except that any series of such numbers in use may be continued. When the numbering in any series reaches ''1,000,000'', the proprietor may recommence the series. However, a new series for packages of spirits and denatured spirits filled during processing operations shall be given an alphabetical prefix or suffix. For additional identification, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written notice to

the appropriate TTB officer. Remnant cases shall be given the serial number of the last full case followed by the letter R. Where there is a change in the individual, firm, corporate name, or trade name, all series in use at that time shall be continued. However, for a change in proprietorship, a new series shall be commenced.

(b) *Alternative method for spirits, including denatured spirits, for industrial use.* Instead of the numbering required by paragraph (a) of this section, packages and cases of spirits, including denatured spirits, for industrial use filled in processing may be marked with lot identification numbers provided in § 19.593.

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

### § 19.595 Specifications for marks.

(a) *Manner.* (1) The proprietor shall place the prescribed marks on cases, encased containers, and packages of spirits and denatured spirits so that they are:

(i) Of sufficient size to be easily read;

(ii) Of a color distinctly in contrast to that of the background;

(iii) Legible; and

(iv) Durable.

(2) Cases, encased containers or packages may be marked by the use of labels which are legible and securely affixed.

(b) *Location.* The required marks shall be placed on one side or head, as applicable.

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

### § 19.596 Marks on packages of spirits filled on bonded premises.

(a) *Packages filled in production or storage.* Except as otherwise provided in this part, packages of spirits filled in production or storage shall be marked with:

(1) The name of the producer, or his trade name as required by paragraph (c) of this section;

(2) The plant number of the producer, such as ''DSP-KY-708'';

(3) The kind of spirits or, in the case of distillates removed under § 19.322, the kind of distillates such as ''Grape distillate'', ''Peach distillate'', etc.;

(4) The package identification number;

(5) ''BSA'' or ''OC'' when spirits are treated with caramel or oak chips, as the case may be;

(6) The rated capacity of the package in gallons shown as ''RC—G''.

(7) If packages of spirits of 190 degrees or more of proof are filled by other than the producer, the name (or trade name) and plant number of the packaging proprietor shall be substituted for that of the producer.

(b) *Packages filled in processing.* Except as otherwise provided in this part, packages of spirits filled in processing shall be marked with:

(1) The name of the processor, or his trade name;

(2) The plant number of the processor, such as ''DSP-KY-708'';

(3) The kind of spirits (in the case of an intermediate, the product name shown on Form 5110.38);

(4) The serial number or lot identification number, as applicable, and date of filling;

(5) Proof of spirits; and

(6) If manufactured under an approved formula, the serial number of the formula.

(c) *Real or trade names.* The producer's real name or any trade name authorized (as provided in § 19.165), at the time of production, may be placed on any package filled at the time of production gauge, or at the time of original packaging of the spirits in wood when, as provided in § 19.320, the spirits were not filled into wooden packages at the time of production gauge. When spirits have been mingled under § 19.346, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits. However, if the proprietor was the actual producer of the spirits, he may in any case use his real name. The processor's real name or any trade name authorized (as provided in § 19.165) may be placed on any package filled with spirits during processing operations.

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

### § 19.597 Kind of spirits.

(a) *Designation.* The designations as to kind of spirits required by § 19.596 shall be in accordance with the classes and types of spirits set out in 27 CFR part 5, except that:

(1) Spirits distilled at more than 160 degrees of proof, which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, and which are substantially neutral in character, may be designated as ''Alcohol''. When alcohol is withdrawn on determination of tax, the designation shall consist of the word ''Alcohol'' preceded or followed by a word or phrase descriptive of the material from which the alcohol was produced.

(2) The designations for vodka, neutral spirits, or gin shall include a word or phrase descriptive of the material from which the spirits so designated were produced.

(3) Spirits distilled at less than 190 degrees of proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, may be designated ''Spirits'', preceded or followed by a word or phrase descriptive of the material from which produced. However, spirits distilled on or after July 1, 1972, as provided in this paragraph may not be designated ''Spirits grain'' or ''Grain spirits''.

(4) Spirits distilled from fruit at or above 190 degrees of proof, if intended for use in wine production, shall be designated ''Neutral Spirits—Fruit'', preceded or followed by the name of the fruit from which produced.

(5) Spirits distilled at not more than 160 degrees of proof from a fermented mash of not less than 51 percent rye, corn, wheat, malted barley, or malted rye grain, packaged in reused cooperage, may be designated ''Whisky'' if further qualified with the words ''Distilled from rye mash'' (or bourbon, wheat, malt, or rye malt mash, as the case may be). However, such spirits shall, if distilled from a fermented mash of not less than 80 percent corn, be designated ''Corn Whisky.''

(b) *Change of designation.* A proprietor may, on written application to, and approval of the appropriate TTB officer, change the original designation for spirits at any time, before their withdrawal from bonded premises, to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If the proprietor proposes to produce spirits for which a designation has not been prescribed, he shall first make written application to the appropriate TTB officer for a designation for such spirits and such spirits shall be branded accordingly.

(d) *Spirits for nonindustrial use.* The provisions of this section shall not be construed as authority for applying designations to spirits withdrawn for nonindustrial use which designations do not comply with provisions of 27 CFR part 5.

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

### § 19.598 [Reserved]

### § 19.599 Change of packages in storage.

When spirits are transferred from one package to another as authorized in § 19.345, each new package shall be given the same package identification number and marks as the original package. The proprietor shall prepare and sign a label to be affixed to the head of each new package in the manner prescribed for affixing distilled spirits stamps. The label shall be in the following form:

The spirits in this _____, (kind of cooperage) _____, (Barrel or drum) package identification No. _____, were transferred from a _____, _____, (kind of cooperage) _____, (Barrel or drum) on _____, (Date),

_____

(Proprietor)

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

### § 19.600 [Reserved]

### § 19.601 Marks on containers of specially denatured spirits.

(a) *General.* Each package, case, and encased container of specially denatured spirits filled on bonded premises shall be marked or labeled to show:

(1) Quantity in gallons;

(2) Serial number or lot identification number;

(3) Plant number of the proprietor;

(4) Designation or abbreviation of the specially denatured spirits by kind (alcohol or rum);

(5) Formula number; and

(6) Proof of spirits which were denatured at other than 190 degrees of proof.

(b) *Bottles.* Each bottle shall be marked or labeled to show the information prescribed in paragraph (a) (1), (3), (4), (5), and (6) of this section.

(c) *Alternate formulations.* When spirits are denatured under a formula authorizing a choice of types and quantities of denaturants, the container or case shall be marked to show actual types and quantities of denaturants used.

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

### § 19.602 Marks on containers of completely denatured alcohol.

Each container of completely denatured alcohol, except pipelines and bulk conveyances, shall have marked on the head of the package, or side of the can or carton, the name of the proprietor by whom the containers were filled, the plant number where filled, the contents in wine gallons, the apparent proof, the words ''Completely Denatured Alcohol'', and the formula number.

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

### § 19.603 [Reserved]

### § 19.604 Caution label.

Each container of completely denatured alcohol containing 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.'' The name and address of the denaturer may be printed on such label, but no other extraneous matter will be permitted thereon without the approval of the appropriate TTB officer. The word ''pure'', qualifying denatured alcohol, will not be permitted to appear on the label or the container.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985]

### § 19.605 Additional marks on portable containers.

(a) In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits or denatured spirits to be withdrawn from the bonded premises:

(1) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft, shall be marked as provided in 27 CFR part 28; or

(2) Tax-free alcohol shall be marked with the word ''Tax-Free.''

(b) The proprietor may show other information such as brand or trade name; caution notices and other material required by Federal, State, or local law or regulations; wine or proof gallons; and plant control data. However, marks or attachments shall not conceal, obscure, interfere with or conflict with the markings required by this subpart.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.606 Marks on bulk conveyances.

(a) The proprietor shall securely attach to the route board, or other suitable device, of each bulk conveyance used to transport spirits or denatured spirits, a label to identify each conveyance or compartment as follows:

(1) Name, plant number, and location of the consignor;

(2) Name, plant number, permit number, or registry number (as applicable), and location of the consignee;

(3) Date of shipment;

(4) Quantity (proof gallons for spirits, wine gallons for denatured spirits); and

(5) Formula number for denatured spirits.

(b) The provisions of paragraph (a) of this section shall not apply when the conveyance is accompanied by documentation which contains the information required by paragraph (a) of this section.

(c) In addition, export shipments shall conform to the requirements of 27 CFR part 28.

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

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.607 Marks on cases.

(a) *Mandatory marks.* Except for cases marked as provided in § 19.608, the following information shall be plainly marked on each case of spirits filled in processing:

(1) Serial number;
(2) Kind of spirits;
(3) Plant number where bottled;
(4) Date filled;
(5) Proof; and
(6) Liters or proof gallons.

Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by 27 CFR part 28.

(b) *Other marks.* In addition to the required marks on cases filled in processing, the proprietor may include other marks such as;

(1) Name or trade name, and location of desired, of the bottler, and in conjunction therewith the word ''Bottler'';

(2) For products actually distilled or processed by the proprietor, his name or trade name, and location, if desired, and in conjunction therewith the words ''Distiller'' or ''Processor'' as applicable;

(3) For products actually imported and bottled by the proprietor, the words ''Imported and Bottled By'', followed by his name or trade name, and location if desired;

(4) For products bottled for a dealer, the words ''Bottled For'', followed by the name of such dealer;

(5) Other material required by Federal or State law and regulations; or

(6) Labels or data describing the contents for commercial identification or accounting purposes, or indicating payment of State or local taxes.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206); sec. 3(a), Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.608 Cases of industrial alcohol.

(a) *Mandatory marks.* Each case, including encased containers, of alcohol bottled for industrial use in accordance with subpart M of this part shall be marked as applicable, to show—

(1) ''Alcohol'';

(2) Serial number or lot identification number;

(3) Plant number;

(4) Proof;

(5) Proof gallons;

(6) ''Tax-Free''; and

(7) Information required by 27 CFR part 28, for cases withdrawn for export, transferred to customs bonded warehouses, transferred to foreign-trade zones, or supplies for certain vessels and aircraft.

(b) *Other marks.* Cases may be marked with other marks which do not interfere with or detract from mandatory case marks in the manner permitted by § 19.607.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.609 [Reserved]

### § 19.610 Obliteration of marks.

Except as provided in § 19.597(b), the marks required by this part to be placed on any container or case shall

not be destroyed or altered before the container or case is emptied.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5206))

[T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.611 Relabeling and reclosing off bonded premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, or reclose bottled taxpaid spirits on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. If products which are relabeled under this section were originally bottled by another proprietor, the relabeling proprietor shall have on file a statement from the original bottler consenting to the relabeling.

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

[T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.612 Authorized abbreviations to identify marks.

In addition to the abbreviations and symbols which are authorized in this part for use in marking containers, the following abbreviations may be used to identify certain marks:

| Mark | Abbreviation |
|---|---|
| Completely Denatured Alcohol | CDA |
| Distilled Spirits Stamps | DSS |
| Gallon or Wine Gallon | WG |
| Gross Weight | G |
| Proof | P |
| Specially Denatured: | |
| Alcohol | SDA |
| Rum | SDR |
| Tare | T |
| Tax Determined | TD |
| Wine Spirits Addition | WSA |

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

## Subpart S—Liquor Bottle and Label Requirements

### § 19.631 Scope of subpart.

The provisions of §§ 19.632 through 19.639 of this subpart shall apply only to liquor bottles having a capacity of 200 ml or more except where expressly applied to liquor bottles of less than 200 ml capacity. The provisions of §§ 19.641 through 19.650 of this subpart shall apply to all liquor bottles, regardless of size.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

LIQUOR BOTTLE REQUIREMENTS

### § 19.632 Bottles authorized.

Liquor bottles for domestic use shall conform to the applicable standards of fill provided in subpart E of 27 CFR part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in subpart E of 27 CFR part 5 is prohibited for the bottling of nonindustrial distilled spirits for domestic purposes.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

### § 19.633 Distinctive liquor bottles.

(a) *Application.* A proprietor desiring approval of domestic liquor bottles of distinctive shape or design, including bottles of less than 200 ml capacity, or, to use such distinctive liquor bottles, shall submit TTB Form 5100.31 to the appropriate TTB officer for approval. The applicant shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval.* Properly submitted TTB Forms 5100.31 for approval of distinctive liquor bottles shall be approved by the appropriate TTB officer if the bottles are found to—

(1) Meet the requirements of 27 CFR part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved TTB Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If TTB Form 5100.31 is disapproved, the applicant shall be notified of the appropriate TTB officer's decision and the reasons therefor.

(c) *Cross reference.* For procedures regarding issuance, denial and revocation of distinctive liquor bottle approvals, as well as appeal procedures, see part 13 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–406, 64 FR 2134, Jan. 13, 1999]

### § 19.634 Receipt and storage of liquor bottles.

No proprietor shall accept shipment or delivery of liquor bottles except from the manufacturer thereof, a supplier abroad, or another proprietor. However, the appropriate TTB officer may, pursuant to letterhead application, authorize a proprietor to receive and reuse liquor bottles assembled for such proprietor as provided in 27 CFR 31.263. Liquor bottles, including those of less than 200 ml capacity, shall be stored in a safe and secure place, either on the proprietor's qualified premises or at another location.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–25, 70 FR 19882, Apr. 15, 2005]

### § 19.635 Bottles to be used for display purposes.

Liquor bottles may be furnished to liquor dealers for display purposes, provided that each bottle is marked to show that it is to be used for such purpose. The disposition of such bottles, showing names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles, shall be included in the records required under § 19.747.

(Approved by the Office of Management and Budget under control number 1512–0198)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.636 Bottles for testing purposes.

Proprietors may ship liquor bottles to persons for testing. The disposition of such bottles, showing the name and address of the person to whom the bottles are shipped, date of shipment, and the size and number of bottles shipped, shall be included in the records required under § 19.747.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

### § 19.637 Bottles not consitituting approved containers.

The appropriate TTB officer shall disapprove for use as a liquor bottle any bottle, including a bottle of less than 200 ml capacity, which he determines to be deceptive. Any such bottle is not an approved container for the purposes of § 19.581 of this part, and shall not be used for packaging distilled spirits for domestic purposes.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

### § 19.638 Disposition of stocks of liquor bottles.

When a proprietor discontinues operations, or permanently discontinues the use of a particular size or type of liquor bottle, the stocks of such bottles on hand shall either be disposed of to another person authorized to receive liquor bottles, or destroyed, including disposition for purposes which will render them unusable as bottles. However, on approval of a written application by the appropriate TTB officer of the region in which the proprietor's plant is located, liquor bottles may be otherwise disposed of.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

### § 19.639 Use and resale of liquor bottles.

No proprietor shall use any liquor bottle except for packaging distilled

spirits, or dispose of any empty liquor bottle except to another person authorized to receive liquor bottles or as provided in § 19.638. Bottles may be furnished to others for display and testing purposes as provided in §§ 19.635 and 19.636, respectively.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

BOTTLE LABEL REQUIREMENTS

### § 19.641 Certificate of label approval or exemption.

(a) *Requirement.* Proprietors are required by 27 CFR part 5 to obtain approval of labels, or exemption from label approval, for any label to be used on bottles of spirits for domestic use and shall exhibit evidence of label approval, or of exemption from label approval, on request of an appropriate TTB officer.

(b) *Cross reference.* For procedures regarding the issuance, denial and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see Part 13 of this chapter.

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

[T.D. ATF–406, 64 FR 2134, Jan. 13, 1999]

### § 19.642 Statements required on labels under an exemption from label approval.

All labels to be used on bottles of spirits for domestic use under an exemption from label approval shall contain the applicable information required in §§ 19.643 through 19.650. Where a statement of age or age and percentage is required, it shall have the meaning given, and be stated in the manner provided in 27 CFR part 5.

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

### § 19.643 Brand name, kind, alcohol content, and State of distillation.

(a) *Brand name and kind.* The label of distilled spirits shall state the brand name and kind, as set out in 27 CFR part 5.

(b) *Alcohol content*—(1) *Mandatory statement.* The label of distilled spirits shall state the alcohol content in percent-alcohol-by-volume. Products such as ''Rock and Rye'' or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: ''Bottled at _____ percent-alcohol-by-volume.''

(2) *Optional statement.* In addition, the label may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(c) *State of distillation*—(1) *Mandatory statement.* If a whisky produced in the United States was not produced in the State shown on the label, the label shall show the State of distillation, except as provided by paragraph (c)(2) or (c)(3) of this section. The appropriate TTB officer may, however, require the State of distillation to be shown on the label or permit such other. labeling as may be necessary to preclude any misleading or deceptive impression which might otherwise be created as to the actual State of distillation.

(2) *Exceptions.* The State of distillation is not required to be shown on labels of ''blended whisky'', ''a blend of straight whiskies'', ''spirit whisky'', ''light whisky'', or ''blended light whisky''. The State of distillation may be prohibited on certain labels of ''light whisky'' or ''blended light whisky'', in accordance with paragraph (c)(3) of this section.

(3) *Prohibited statement.* The State of distillation may not be shown, except as part of the name and address required by 27 CFR 5.36(a), on labels of ''light whisky'' or ''blended light whisky'' produced in a State which the appropriate TTB officer finds to be associated by consumers with an American type whisky.

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

### § 19.644 Net contents.

The net contents of liquor bottles shall be shown on the label, unless the statement of the net contents is permanently marked on the side, front, or back of the bottle.

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

### § 19.645 Name and address of bottler.

There shall be stated on the label of distilled spirits the phrase ''Bottled by'', ''packed by'', or ''Filled by'' immediately followed by the name (or trade name) of the bottler and the place where such spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants. However:

(a) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase ''Bottled by'', ''Packed by'', or ''Filled by'', followed by the bottler's name (or trade name) and address, the phrase ''Distilled by'', followed by the name (or trade name) under which the particular spirits were distilled, or any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller;

(b) Where ''straight whiskies'' of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as ''straight whisky,'' such ''straight whisky'' shall be labeled in accordance with the requirements of the first paragraph of this section. Where such ''straight whisky'' is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of the first paragraph of this section, the phrase ''distilled by,'' followed by the names (or trade names) of the different distillers who distilled a portion of the ''straight whisky,'' the addresses of the distilleries where the ''straight whisky'' was distilled, and the percentage of ''straight whisky'' distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where ''straight whisky'' is made up of a mixture of ''straight whiskies'' of the same type from two or more different distilleries of the same proprietor located within the same State, and where the ''straight whisky'' is bottled by or for the proprietor thereof, such ''straight whisky'' may be labeled, in lieu of the requirements of the first paragraph of this section, with the phrase ''distilled by'' followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the ''straight whisky.''

(c) Where distilled spirits are bottled by or for the proprietor of a distilled spirits plant, there may be stated, in lieu of the phrase ''Bottled by'', ''Packed by'', or ''Filled by'', followed by the bottler's name (or trade name) and address, the phrase ''Blended by'', ''Made by'', ''Prepared by'', ''Manufactured by'', or ''Produced by'' (whichever may be appropriate to the process involved), followed by the name (or trade name) and the address (or addresses) of the distilled spirits plant proprietor;

(d) On labels of distilled spirits bottled for a retailer or other person who is not the actual distilled spirits plant proprietor of such distilled spirits, there may also be stated the name and address of such retailer or other person, immediately preceded by the words ''Bottled for'', or ''Distributed by'', or other similar statement; and

(e) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or processing operation occurred, if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle. The coding system employed will permit an appropriate TTB officer to determine where the operation stated on the label occurred. Prior to using a coding system, the distilled spirits plant proprietor shall

send a notice explaining the coding system to the appropriate TTB officer .

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–259, 52 FR 41423, Oct. 28, 1987; T.D. ATF–260, 52 FR 42101, Nov. 3, 1987]

### § 19.646 Age of whisky containing no neutral spirits.

In the case of whisky containing no neutral spirits, statements of age and percentage shall be stated on the label as provided in 27 CFR part 5.

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

### § 19.647 Age of whisky containing neutral spirits.

In the case of whisky containing neutral spirits, the age of the whisky or whiskies and the respective percentage by volume of whisky or whiskies and neutral spirits, shall be stated on the label as provided in part 5 of this chapter.

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

### § 19.648 Age of brandy.

If brandy is aged for a period of less than two years, the age thereof shall be shown on the label.

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

### § 19.649 Presence of neutral spirits and coloring, flavoring, and blending materials.

The presence of neutral spirits or coloring, flavoring, or blending materials shall be stated on labels in the manner provided in 27 CFR part 5.

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

### § 19.650 Country of origin.

On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form: ''Product of _____,'' the blank to be filled in with the name of the country or origin.

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

## Subpart T—Closures

SOURCE: T.D. ATF–206, 50 FR 23952, June 7, 1985, unless otherwise noted.

### § 19.661 General.

Each bottle or other container of spirits having a capacity of one gallon (3.785 liters) or less shall bear a closure or other device affixed in accordance with § 19.662. The closure or other device shall be affixed to the container prior to withdrawal from bond or customs custody.

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

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

### § 19.662 Affixing closures.

Closures or other devices on containers having a capacity of one gallon (3.785 liters) or less shall be securely affixed to the containers so as to leave a portion remaining on the container when the container is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

### § 19.663 Reclosing.

Bottles of distilled spirits filled on bonded premises may be reclosed under the provisions of subpart M of this part. Bottles of distilled spirits to which closures or other devices have been affixed may also be reclosed under the provisions of § 19.611.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5215))

## Subpart U—Return of Spirits to Bonded Premises and Voluntary Destruction

RETURNS

### § 19.681 Return of taxpaid spirits to bonded premises.

(a) *General.* This section and § 19.682 pertain only to taxpaid spirits returned to bonded premises under 26 U.S.C. 5215(a). The return of taxpaid bottled

spirits to bonded premises solely for relabeling or reclosing is covered in § 19.393.

(b) *Return.* Distilled spirits on which the tax has been paid or determined may only be returned to the bonded premises of a distilled spirits plant under this section for:

(1) Destruction, in accordance with § 19.691;

(2) Denaturation, in accordance with subpart N;

(3) Redistillation, in accordance with subpart K;

(4) Reconditioning; or

(5) Rebottling.

(c) *Claims.* Claims for credit or refund of tax on spirits returned to bonded premises shall be filed as provided in, and accompanied by the information prescribed by, § 19.42.

(d) *Applicability of 26 U.S.C. Chapter 51.* All provisions of 26 U.S.C. Chapter 51 and this part, applicable to spirits in TTB bond, shall be applicable to spirits when returned to bonded premises under this section. The provisions of this subpart do not apply to taxpaid bottled spirits returned to bond solely for relabeling or reclosing and under the provisions of subpart M of this part.

(Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23952, June 7, 1985]

### § 19.682 Receipt and gauge of returned taxpaid spirits.

(a) *Dump.* Unless returned in the sealed metal drums in which they were withdrawn, spirits returned to bonded premises shall be immediately dumped.

(b) *Gauge.* Spirits returned under § 19.681 shall be gauged upon receipt on bonded premises. Such gauge may be established on the basis of case markings and label information, as provided in § 19.91.

(c) *Supporting documents.* (1) Proprietors must have on file at the plant where spirits are returned to bond such documentation as is necessary to establish the amount of tax for which a claim for credit or refund may be allowed. Proprietors shall maintain credit memoranda or comparable financial records evidencing the return of each lot of spirits.

(2) If the spirits contain eligible wine or eligible flavors, the proprietor shall also have on file a copy of the record of tax determination prescribed by § 19.761, or other documentation which establishes the amount of tax for which a claim for credit or refund may be allowed. In lieu of establishing the actual effective tax rate of a product, the proprietor may claim refund or credit based on the lowest effective tax rate applied to the product.

(Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215); Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18064, Apr. 30, 1990]

### § 19.683 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenaturation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of 27 CFR part 20. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce or process spirits. Recovered denatured spirits or recovered articles shall be gauged on receipt.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1363, as amended, 1372, as amended (26 U.S.C. 5223, 5273))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985]

### § 19.684 Articles and spirits residues received for redistillation.

Articles manufactured under 27 CFR part 20, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits plant authorized to produce or process distilled spirits, for the recovery by redistillation of the distilled spirits contained in

those materials. The proprietor shall gauge the materials when received.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985]

### § 19.685 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.

(a) *General.* Specially denatured spirits withdrawn free of tax under the applicable provisions of 27 CFR part 28 for exportation or for deposit in a foreign-trade zone, and spirits or denatured spirits withdrawn free of tax under the applicable provisions of 27 CFR part 20 or 22, may be returned: (1) To bonded premises of any distilled spirits plant authorized to produce or process distilled spirits, for redistillation; or (2) To any bonded premises of a distilled spirits plant pending subsequent lawful withdrawal free of tax. Recovered tax-free spirits may, as provided in 27 CFR part 22, be returned for redistillation to bonded premises of any distilled spirits plant authorized to produce or process distilled spirits or to any bonded premises of a distilled spirits plant for restoration (not including redistillation). The return shall be made under the applicable provisions of this part and 27 CFR part 20, 22, or 28, as appropriate.

(b) *Bonding requirements.* Before spirits or denatured spirits are returned to bonded premises, except spirits or denatured spirits returned for redistillation, the proprietor shall file a consent of surety on Form 1533 to extend the terms of the operations or unit bond to cover the return of the spirits. The proprietor may file one consent of surety on the bond to extend the terms thereof to cover all spirits which may be returned.

(c) *Procedure.* When recovered tax-free spirits, spirits, or denatured spirits are received, they shall be gauged. When containers of spirits removed for export are returned to bond, pending subsequent removal for a purpose other than export, the export marks shall be obliterated.

(Sec. 3, Act of June 13, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1365, as amended (26 U.S.C. 5001, 5223))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; T.D. TTB–8, 69 FR 3829, Jan. 27, 2004]

### § 19.686 Return of spirits withdrawn without payment of tax.

(a) *Spirits withdrawn for export.* Spirits lawfully withdrawn without payment of tax under the provisions of 27 CFR part 28 for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and 27 CFR part 28: (1) To the bonded premises of any plant authorized to produce or process distilled spirits, for redistillation; or (2) To the bonded premises from which withdrawn pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under § 19.532 for use in wine production, and not so used, may be returned to the bonded premises of a distilled spirits plant. The consignee proprietor shall obtain approval, as provided in § 19.506. The wine spirits shall be removed from the winery in accordance with the provisions of 27 CFR part 240.

(c) *Spirits withdrawn for research, development, or testing.* Spirits withdrawn without payment of tax, under the provisions of subpart V of this part, for research, development, or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. After returning these spirits to bonded premises, they shall be destroyed, returned to containers, or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* When spirits are received, they shall be gauged by the proprietor. When spirits which were removed for exportation are returned to bonded premises pending subsequent

removal for a purpose other than exportation, all export marks on the containers in which the spirits are returned shall be obliterated.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23952, June 7, 1985; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 19.687 Return of spirits withdrawn for export with benefit of drawback.

Subject to the provisions of 27 CFR 28.197 through 28.199, whole or partial shipments of spirits withdrawn for export with benefit of drawback may be returned to: (a) The bonded premises of the distilled spirits plant, pursuant to § 19.681, or (b) to a wholesale liquor dealer or taxpaid storeroom. Claims filed by proprietors on TTB Form 5110.30 which include the returned spirits shall be reduced by the amount of tax paid or determined on the returned spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 19.688 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a plant for denaturation or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits or denatured spirits until denatured. The receipt and gauging provisions of § 19.683 are applicable to these spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5243))

VOLUNTARY DESTRUCTION

### § 19.691 Voluntary destruction.

(a) *General.* Spirits, denatured spirits, articles, or wines in bond may be voluntarily destroyed as provided in this section. The tax liability on spirits, denatured spirits, articles, or wines so destroyed is extinguished.

(b) *Wine notice.* Wine may be destroyed in bond only after the proprietor has filed notice with the appropriate TTB officer stating the kind and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after such notice has been filed.

(c) *Gauging.* A proprietor shall gauge spirits, denatured spirits, articles, or wines to be destroyed. Gauges of spirits in bottles may be established on the basis of legible case markings and label information when:

(1) The bottles are full;

(2) There is no evidence that the bottles have been tampered with.

(d) *Off bonded premises.* Spirits, denatured spirits, articles or wines may be removed and destroyed at a location off bonded premises if the proprietor has filed a consent of surety to cover such removal. If the destruction is accomplished off plant premises, the proprietor shall ensure compliance with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor shall record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.767.

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

## Subpart V—Samples of Spirits

### § 19.701 Spirits withdrawn from bonded premises.

(a) *Samples withdrawn from bonded premises.* The proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, to the proprietor's laboratory, the laboratory of an affiliated or subsidiary corporation, or, if approved by the appropriate TTB officer, to a recognized commercial laboratory for testing or analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. The quantity of spirits so withdrawn shall not exceed the amount necessary for conduct of the proprietor's operations.

(b) *Customer samples.* A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing (other than consumer testing or other market analysis) only if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by the prospective purchaser; except that a sample not to exceed 1 liter may be furnished to a prospective customer for quality testing in anticipation of a purchase agreement if the customer is authorized to receive bulk spirits for industrial use.

(c) *Research or development.* Spirits may be withdrawn without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the testing, research or development. If the testing, research or development is to be conducted by other than the proprietor, the proprietor shall secure a written statement, executed by the consignee, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by appropriate TTB officers.

(d) *Conditions.* (1) Records will be maintained in accordance with § 19.766 of all spirits taken or withdrawn under the provisions of this section.

(2) Remnants or residues of spirits withdrawn but not used during testing, research or development shall be destroyed or returned to the bonded premises for storage with similar products or entry in the continuous distilling system.

(e) *Limitation.* The appropriate TTB officer shall proceed to collect the tax on any spirits withdrawn under this section which are found to have been withdrawn, used or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax as prescribed by § 19.41.

(Sec. 201, Pub. L. 86–859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5173))

### § 19.702 Samples used on bonded premises.

The proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises of the distilled spirits plant. The applicable purposes, conditions and limitations for samples taken pursuant to § 19.701 shall also apply to samples taken as authorized by this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5008))

### § 19.703 Taxpayment of samples.

When tax is required to be paid on samples:

(a) If the proprietor is qualified to defer payment of tax, the tax shall be included in the proprietor's next deferred payment of tax on Form 5000.24.

(b) If the proprietor is not qualified to defer the payment of tax, the tax shall be paid on a prepayment tax return on Form 5000.24.

[T.D. ATF–219, 50 FR 51388, Dec. 17, 1985, as amended by T.D. TTB–41, 71 FR 5602, Feb. 2, 2006]

### § 19.704 Labels.

(a) On each container of spirits to be withdrawn under the provisions of § 19.701, the proprietor shall affix a label showing the following information:

(1) Purpose for which withdrawn;

(2) Kind of spirits;

(3) Size and the proof of the sample, if known;

(4) If the spirits are removed to other then adjacent or contiguous premises of the proprietor, the name and address of the consignee;

(5) The proprietor's name, and plant number; and

(6) The date taken.

(b) The labeling required by paragraph (a) of this section is not necessary when sample containers bear an approved label pursuant to 27 CFR Part 5 and subpart S of this part and the

sample is removed from bonded premises to the general premises of the same distilled spirits plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5206, 5214, 5373))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23952, June 7, 1985]

## Subpart W—Records and Reports

GENERAL

### § 19.721 Records.

(a) *In General.* (1) The records to be maintained by proprietors shall include:

(i) All individual transaction forms, records, and summaries specifically required by this part;

(ii) All supplemental, auxiliary, and source data utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and

(iii) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(2) The records required by this part may consist of the proprietor's commercial documents, rather than records prepared expressly to meet the requirements of this part, if such documents contain all the details required by this part to be recorded, are consistent with the general requirements of clarity and accuracy, and do not result in difficulty in their examination.

(b) *Accounts.* The records required by this part to be maintained by proprietors shall be arranged into three primary operational accounts:

(1) Production,

(2) Storage, and

(3) Processing.

Records shall indicate receipts, movements between accounts, transfers in bond, or withdrawals of spirits, denatured spirits, articles, or wines.

(c) *Exceptions.* The term ''records'' as used in this subpart does not include copies of qualifying documents required under subpart G, or of bonds required under Subpart H of this part.

(d) *Special provisions.* See 27 CFR 70.22 for information with respect to TTB examination of financial records and books of account.

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

### § 19.722 Conversion between metric and U.S. units.

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows: (a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal; or (b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth. Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

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

### § 19.723 Maintenance and preservation of records.

(a) *Place of maintenance.* Records required by this part shall be prepared and kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Reproduction of original records.* (1) Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the appropriate TTB officer under § 19.725 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record.

(2) All provisions of law applicable to the original record shall be applicable to such reproductions.

(c) *Retention of records.* (1) Records required by this part shall be preserved for a period of not less than three years from the date thereof or the date of the last entry required to be made thereon,

whichever is later. However, the appropriate TTB officer may require records to be kept for an additional period not exceeding three years in any case where such retention is deemed necessary or advisable for the protection of the revenue.

(2) The period for retention of records prescribed in paragraph (c)(1) of this section shall not apply to copies of outstanding approved formulas or to copies of formulas which form the basis for claims for credit or refund of taxes on spirits returned to bonded premises. A copy of any such formula shall be kept by the proprietor at the plant where spirits are processed subject to the formula or at the plant where such spirits are received.

(d) *Data processing.* (1) Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the original transaction (source) records required by §§ 19.736–19.779 are kept available for inspection at the plant premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within five business days.

(3) The applicable data processing program shall be made available for examination if requested by an appropriate TTB officer.

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

### § 19.724 Modified forms.

(a) *Application.* Proprietors desiring to modify prescribed forms shall submit an application to the appropriate TTB officer. The application shall be accompanied by:

(1) A copy of each proposed form with typical entries; and

(2) A statement showing the need for use of the modified forms. Modified forms shall not be used until approved by the appropriate TTB officer.

(b) *Restrictions.* The use of modified forms shall not relieve a proprietor from any requirement of this part. The appropriate TTB officer may require a proprietor to immediately discontinue the use of any modified form when such use is found to pose administrative problems.

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

### § 19.725 Photographic copies of records.

(a) *Application.* Proprietors who desire to record, copy or reproduce records, required by this part, by any process which accurately reproduces or forms a durable medium for so reproducing the original of such records, shall apply to the appropriate TTB officer for permission to do so, describing:

(1) The records to be reproduced,

(2) The reproduction process to be employed,

(3) The manner in which the reproductions are to be preserved, and

(4) The provisions to be made for examining, viewing, and using such reproductions.

(b) *Approval.* The appropriate TTB officer shall not approve any application unless the manner of preservation of the reproductions and the provisions for examining, viewing, and using such reproductions are satisfactory.

(c) *Conditions.* Whenever records are reproduced under this section, the reproduced records shall be preserved in conveniently accessible files, and provisions shall be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it shall be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original shall be applicable to the reproduced record. As used in this section, ''original record'' shall mean the record required by this part to be maintained or preserved by the proprietor, even though it may be an executed duplicate or other copy of the document.

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

### § 19.726 Authorized abbreviations to identify spirits.

The following abbreviation may be used, either alone or in conjunction with descriptive words, to identify the kind of spirits on forms or records:

| Kinds of spirits | Abbreviations |
|---|---|
| Alcohol | A |
| Brandy | BR |
| Bourbon Whisky | BW |
| Canadian Whisky | CNW |
| Completely Denatured Alcohol | CDA |
| Corn Whisky | CW |
| Grain Spirits | GS |
| Irish Whisky | IW |
| Light Whisky | LW |
| Malt Whisky | MW |
| Neutral Spirits | NS |
| Neutral Spirits Grain | NSG |
| Rye Whisky | RW |
| Scotch Whisky | SW |
| Specially Denatured Alcohol | SDA |
| Special Denatured Rum | SDR |
| Tequila | TEQ |
| Vodka | V |
| Whisky | W |

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

RECORDS

### § 19.731 General.

(a) *Entries.* (1) Each entry required by this part to be made in daily records shall be made on the day on which the operation or transaction occurs.

(2) When the proprietor prepares supplemental or auxiliary records concurrent with the individual operation or transaction, and these records contain all the required information with respect to the operation or transaction, entries in daily records may be deferred not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.

(b) *Content.* (1) All entries in the daily records required by this subpart shall show the date of the operation or transaction.

(2) Daily records shall accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable:

(i) Identification and proper marking and labeling of spirits, denatured spirits, or wines;

(ii) Proprietors to prepare summaries, reports, and returns required by this part; and

(iii) appropriate TTB officers to:

(A) Verify and trace the quantity and movement of materials, spirits, denatured spirits, wines, or alcoholic flavoring materials involved in each transaction or operation;

(B) Verify tax determinations and claims; and

(C) Ascertain whether there has been compliance with law and regulations.

(c) *Format.* (1) Proprietor's copies of prescribed forms which bear all required details shall be utilized as daily records.

(2) In instances when a form is not prescribed, the records required by this subpart shall be those commercial records used by the proprietor in his accounting system and shall bear all required details.

(3) Daily records required by this part shall be so maintained that they clearly and accurately reflect all mandatory information. Where the format or arrangement of the daily records is such that the information is not clearly or accurately reflected, the appropriate TTB officer may require a format or arrangement which will clearly and accurately reflect the information.

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

### § 19.732 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, except as provided in § 19.751.

(b) Denatured spirits shall be recorded by formula number and by quantity in wine gallons.

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. However, when nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded. When it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the proprietor may estimate the weight or volume of the material.

(d) Wines shall be recorded by kind, by quantity in wine gallons, and by percent of alcohol by volume.

(e) Alcoholic flavoring materials shall be recorded by kind, formula number (if any) and by quantity in proof gallons.

(f) Containers (other than those bearing lot identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. However, spirits withdrawn in cases may be recorded without the serial numbers of the cases, unless the appropriate TTB officer requires such recording. Package identification numbers, number of packages, and proof gallons per package shall be recorded on deposit record in the storage account reflecting production gauges or filling of packages from tanks, however, only the lot identification, number of packages, and proof gallons per package need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part.

(g) Materials intended for use in the production of spirits shall be recorded by kind and by quantity, recording liquids in gallons and other materials in pounds, and giving the sugar content for molasses.

(h) The name and address of the consignee or consignor, and if any, the plant number or industrial use permit number of such person, shall be recorded for each receipt or removal of materials, spirits, denatured spirits, articles, spirits residues, and wine.

(i) The serial number of the tank used shall be recorded for each operation or transaction.

(j) The rate of duty paid on imported spirits shall be shown on the transaction forms or records.

(k) Records shall identify imported spirits, spirits from Puerto Rico, and spirits from the Virgin Islands, or the records shall show that a distilled spirits product contains such spirits.

(l) Records shall identify spirits that are to be used exclusively for fuel use.

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

PRODUCTION ACCOUNT

### § 19.736 Daily production records.

(a) *Spirits production.* Each proprietor shall maintain daily production account records of production operations showing:

(1) The receipt of fermenting material or other nonalcoholic material intended for use in the production of spirits.

(2) The receipt and use of spirits, denatured spirits, articles, and spirits residues received for redistillation.

(3) The fermenting material set in each fermenter or other material used in the production of spirits.

(4) The distilling material produced, received for production, and used in production of spirits, or destroyed or removed from the premises before being distilled (including the residue of beer returned to the producing brewery).

(5) The gauge of spirits in each receiving tank, the production gauge (in proof gallons) of spirits removed from each tank, and the transaction form or record and its serial number covering each removal. The details of individual packages filled pursuant to production gauge for immediate withdrawal from bonded premises shall also be recorded.

(6) The fermenting materials or other nonalcoholic materials used or removed from the premises.

(7) The quantity and testing for alcoholic content of fusel oil or other chemicals removed from the production system and the disposition thereof with the name of the consignee, if any.

(8) The kind and quantity of distillates removed from the production system pursuant to § 19.322.

(9) The kind and quantity of spirits, lost or destroyed prior to production gauge. Records pertaining to the production account shall be maintained in such a manner that the spirits produced may be traced through the distilling system to the mash or other material from which produced, and the identity of the spirits thus traced may be clearly established.

(b) *Byproduct spirit production.* Each proprietor who manufactures substances other than spirits, in a process which produces spirits as a byproduct, shall maintain daily production

records as to each such process showing:

(1) The kind and quantity of materials received, unless included in records maintained under paragraph (a) of this section.

(2) The spirits produced and disposed of.

(3) The kind and quantity of other substances produced.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

STORAGE ACCOUNT

### § 19.740 Daily storage records.

(a) *General.* Proprietors shall maintain daily records in the storage account which shall show for each kind of spirits or wine, as applicable:

(1) Spirits or wines received for deposit in storage;

(2) Spirits mingled;

(3) Spirits in tanks;

(4) Spirits or wines filled into packages from tanks and retained for storage;

(5) Spirits of less than 190 degrees of proof or wines transferred from one tank to another;

(6) Spirits returned to bond;

(7) Spirits or wines voluntarily destroyed;

(8) Spirits or wines lost during storage;

(9) The transfer of spirits or wine from one package to another;

(10) The addition of oak chips to spirits and the addition of caramel to brandy or rum; and

(11) The disposition of spirits or wines.

(b) *Records covering deposits.* The proprietor's copies of gauge records, transfer records, or tank records of wines or spirits of less than 190 degrees of proof covering: deposit in the storage account of spirits received from the production account, from customs custody, or by return to bond under subpart U of this part, or of wines or spirits from other bonded premises; packages of spirits or wines filled from tanks and retained in the storage account after mingling; and wines or spirits of less than 190 degrees of proof transferred from one tank to another, shall be utilized by the proprietor to record wines or spirits deposited in the storage account. The proprietor shall enter the date of deposit of the spirits in storage on the record. Files of deposit records shall be maintained for spirits in packages and such files shall be arranged by producers (by warehouseman in the case of blended rums or brandies and for spirits of 190 degrees or more of proof, by the warehouseman who received the spirits from customs custody in the case of imported spirits, and by producer in the Virgin Islands or Puerto Rico in the case of Virgin Islands or Puerto Rican spirits), in chronological order according to the date of deposit in the storage account, and, when possible, in sequence by lot identification for packages. (For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the proprietor [producer].) Also, files of deposit records shall be maintained, in the manner prescribed by 19.742, for wines and for spirits of less than 190 degress of proof in tanks in the storage account with a separate file for each tank of wines or spirits. In the case of spirits of 190 degrees or more of proof deposited in tanks in the storage account, the proprietor shall maintain a separate consolidated file of deposit records for all tanks, separately as to gin, vodka, and other spirits as applicable, of all such domestic spirits; all such imported spirits duty paid at the beverage rate; all such imported spirits duty paid at the nonbeverage rate; all such Virgin Islands spirits; and all such Puerto Rican spirits. Such files shall be arranged chronologically by date of deposit in the warehouse.

(c) *Records covering withdrawals.* When wines or spirits other than spirits of 190 degrees or more of proof in tanks in the storage account, are withdrawn from the storage account the proprietor shall note on the record of deposit, the date and disposition of the spirits so that the files shall currently reflect the spirits remaining in the storage account. When spirits of 190 degrees or more of proof are withdrawn from tanks in the storage account the record of deposit need not be noted, but

semi-annually (as of June 30 and December 31) the proprietor shall remove from his consolidated files of active deposit records all such records in excess of those required to cover the quantity of spirits shown as remaining in tanks. The deposit records so removed shall be those covering spirits first deposited in the storage account.

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

### § 19.741 Package summary records.

(a) *General.* Each warehouseman shall keep current summary records for each kind of spirits or wines in packages, to show the spirits or wines deposited in, withdrawn from, and remaining in the storage account. Separate accounting records shall be kept for domestic spirits, imported spirits, Virgin Islands spirits, Puerto Rican spirits, and wine. Package accounts for spirits may be kept by either the season or the year the packages were filled with spirits.

(b) *Arrangement.* Package summary records shall be prepared and arranged separately:

(1) For domestic spirits of less than 190 degrees of proof, alphabetically by State and numerically by the plant number and name of the producer or warehouseman.

(2) For domestic spirits of 190 degrees or more of proof, alphabetically by State, and numerically by the plant number and name of the warehouseman.

(3) For imported spirits, alphabetically by State and numerically by the plant number and name of the warehouseman who received the spirits from customs custody.

(4) For Puerto Rican or Virgin Islands spirits, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands.

(5) For wine, by kind and tax rate imposed by 26 U.S.C. 5041.

(c) *Details.* Package summary records shall show the following details:

(1) The date the summarized transactions occurred;

(2) For spirits, the number of packages and the proof gallons contained therein;

(3) For wine, the number of packages and the wine gallons contained therein;

(4) Gains or shortages disclosed by inventory or when an account is closed; and

(5) Gallon balances on summary records for spirits and wines remaining in the account at the end of each month.

(d) *Summarization.* Package summary records shall be consolidated at the end of each month, or for lesser periods when required by the appropriate TTB officer, to show for all types of containers and kinds of spirits, the total proof gallons received in, withdrawn from, and remaining in the storage account.

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

### § 19.742 Tank record of wine or spirits of less than 190 degrees of proof.

(a) *General.* Proprietors shall keep a record for each tank (including bulk conveyance) containing wine or spirits of less than 190 degrees of proof to show deposits into, withdrawals from, and the balance remaining in each tank in the storage account. A new record shall be prepared each time wine or spirits are deposited in an empty tank. Except as otherwise provided in this section, each transaction shall be recorded on the day the transaction occurs.

(b) *Arrangement.* Tank records shall be prepared and arranged:

(1) For domestic spirits, alphabetically by State, and numerically by (i) the plant number and name of the producer, or, (ii) for blended rums or brandies, the plant number and name of the warehouseman;

(2) For imported spirits, alphabetically by State, and numerically by the plant number and name of the warehouseman;

(3) For Puerto Rican or Virgin Islands spirits, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands; and

(4) For wine, by kind and tax rate imposed by 26 U.S.C. 5041.

(c) *Details.* Tank records shall show the following details:

(1) Tank record serial number, beginning with ''1'' for each record initiated on or after January 1;

(2) Date of each transaction;

(3) Identification of the tank;

(4) Kind of wine or spirits;

(5) Number and average proof gallon content of packages of spirits dumped in the tank, or a notation indicating the deposit in the tank of spirits by pipeline;

(6) Wine gallons of wine, or proof gallons of spirits deposited;

(7) If subject to age, the age of the youngest spirits in years, months and days, each time spirits are deposited;

(8) Wine gallons of wine, or proof gallons of spirits withdrawn;

(9) Related transaction form or record and its serial number for deposits or withdrawals;

(10) Wine gallons of wine, or proof gallons of spirits remaining in the tank, recorded at the end of each calendar month; and

(11) Gain or loss disclosed by inventory or on emptying of the tank.

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

### § 19.743 Tank summary record for spirits of 190 degrees or more of proof.

(a) *General.* Proprietors shall keep a tank summary record for spirits of 190 degrees or more of proof held in tanks to show the proof gallons deposited into, withdrawn from, and remaining in tanks in the storage account. A separate tank summary record shall be prepared for each kind of spirits of 190 degrees or more of proof. Entries shall be made for each day in which a transaction occurs, and shall be recorded as a summary of the individual transactions shown on the deposit records.

(b) *Arrangement.* Tank summary records shall be prepared and arranged:

(1) For domestic spirits, alphabetically by State, and numerically by the plant number and name of the warehouseman;

(2) For imported spirits, alphabetically by State, and numerically by the plant number of the warehouseman who received the spirits from customs custody; and

(3) For spirits from Puerto Rico or the Virgin Islands, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands.

(c) *Details.* Tank summary records shall show the following details:

(1) Kind of spirits;

(2) Date of transactions summarized;

(3) Proof gallons deposited;

(4) Proof gallons withdrawn;

(5) Proof gallons remaining in tanks; and

(6) Gain or loss disclosed by inventory or on emptying of the tanks summarized on the record.

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

PROCESSING ACCOUNT

### § 19.746 Processing.

Each processor shall maintain daily records of transactions and operations with respect to:

(a) Manufacture of distilled spirits products;

(b) Finished products;

(c) Denaturation of spirits; and

(d) Manufacture of articles.

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

### § 19.747 Records of manufacturing.

Each processor shall maintain daily records of the details of manufacturing operations, showing:

(a) The spirits, wines, and alcoholic flavoring materials received. The total receipts shall be summarized showing (1) the spirits received from storage or production at the same plant, (2) the spirits received from other plants by transfer in bond, (3) spirits received from customs custody, (4) wines received from the storage account at the same plant, (5) wines received by transfer in bond, and (6) alcoholic flavoring materials received.

(b) The spirits, wines, alcoholic flavoring materials, and other ingredients used in the manufacture of a distilled spirits products showing the serial number of the dump/batch record covering such dump.

(c) Bottling or packaging of each batch of spirits, showing the serial numbers of the bottling and packaging records covering such bottling or packaging.

(d) The results of bottling proof and fill tests as required by § 19.386.

(e) Receipt, use and disposition of liquor bottles.

(f) The rebottling, relabeling, and reclosing of bottled products as required by §§ 19.392 and 19.393.

(g) The spirits, wines, and alcoholic flavoring materials removed from the premises.

(h) The spirits moved to the production account for redistillation.

(i) Redistillation of spirits, including the production of gin and vodka by means other than original and continuous distillation.

(j) Record of alcoholic flavoring materials deposited into tanks prior to dumping showing the consignor, the date and quantity received, the name of the product, the date and quantity of each removal from the tank and losses.

(k) Spirits returned to bond.

(l) The voluntary destruction of spirits and wines.

(m) The losses as provided in subpart Q of this part.

The records required by paragraph (a) of this section shall also show the name and plant number of the producer or processor (warehouseman in the case of blended beverage rums or brandies or spirits of 190 degrees of more of proof received from storage) for domestic spirits, the name of the importer and the country of origin for imported spirits, and the name and address of the producer of wines and alcoholic flavoring materials.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23953, June 7, 1985]

### § 19.748 Dump/batch records.

(a) *Format of dump/batch records.* Proprietor's dump/batch records shall contain, as applicable, the following:

(1) Serial number;

(2) Name and distilled spirits plant number of the producer;

(3) Kind and age of spirits used with a notation to indicate treatment with oak chips, addition of caramel, imported spirits, and spirits from Puerto Rico and the Virgin Islands;

(4) Serial number of tank or container to which ingredients are added for use;

(5) Serial or identification number of tank or container from which spirits are removed;

(6) Quantity by ingredient of other alcoholic ingredients used, showing wine in wine gallons, percentage of alcohol by volume and proof, and alcoholic flavoring materials in proof gallons;

(7) Serial number of source transaction record (e.g., record covering spirits previously dumped);

(8) Date of each transaction;

(9) Quantity, by ingredient (other than water), of nonalcoholic ingredients used;

(10) Formula number;

(11) Quantity of ingredients used in the batch that have been previously dumped, reported on dump records, and held in tanks or containers;

(12) Total quantity in proof gallons of all alcoholic ingredients used;

(13) Identification of each record to which spirits are transferred;

(14) Quantity in each lot transferred;

(15) Date of each transfer;

(16) Total quantity in proof gallons of product transferred;

(17) Gain or loss; and

(18) For each batch to be tax determined in accordance with § 19.35, the effective tax rate.

(b) *Redistillation.* (1) Dump/batch records shall be prepared to show spirits to be redistilled in the processing account, including the production of gin or vodka by redistillation. A dump record shall also be prepared to record the finished distillate.

(2) When redistillation requires the use of more than one tank or other vessel in a continuous distilling system, the system may be shown on the record in lieu of preparing a separate record to show each movement of spirits between tanks or vessels.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18064, Apr. 30, 1990]

### § 19.749 Bottling and packaging record.

The bottling and packaging record shall be prepared and contain the following information:

(a) Tank number(s);

(b) Serial number (beginning with ''1'' at the start of each calendar or fiscal year);

(c) Formula number (if any) under which the batch was produced;

(d) Serial number of the dump/batch record from which received;

(e) Kind of product (including age, if claimed);

(f) Details of the tank gauge (including proof, wine gallons, proof gallons, and, if applicable, obscuration);

(g) The date the bottles or packages were filled;

(h) Size of the bottles or packages filled, number of bottles per case, and number of cases or packages filled;

(i) Serial numbers by brand name of cases or other containers filled;

(j) Proof of the spirits bottled or packaged (if different from subsection (f));

(k) Total quantity bottled, packaged or otherwise disposed of in bulk;

(l) Losses or gains; and

(m) Whether the spirits were labeled as bottled in bond.

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

### § 19.750 Records of alcohol content and fill tests.

(a) Proprietors shall record the results of all tests of alcohol content and quantity (fill) conducted.

(b) The record shall be maintained in a manner and provide information that will enable appropriate TTB officers to determine whether the proprietor has complied with the provisions of § 19.386 by:

(1) Monitoring operations by conducting alcohol content and fill tests; and

(2) Employing procedures to correct variations in alcohol content and fill.

(c) Alcohol content and fill test records shall contain, at a minimum, the following information:

(1) Date and time of test;

(2) Bottling tank number;

(3) Serial number of bottling record;

(4) Bottling line designation;

(5) Size of bottle;

(6) Number of bottles tested;

(7) Labeled alcohol content;

(8) Alcohol content found by the test;

(9) Percentage of variation from 100 percent fill; and

(10) Corrective action taken, if any.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5555); Sec. 807(a), Pub. L. 96–39 (26 U.S.C. 5207)

[T.D. ATF–237, 51 FR 36395, Oct. 10, 1986; 51 FR 37271, Oct. 21, 1986]

### § 19.751 Records of finished products.

Each processor shall maintain by proof gallons daily transaction records and a daily summary record of spirits bottled or packaged as follows:

(a) Beginning and ending quantity of bottled or packaged spirits on hand;

(b) Spirits bottled or packaged;

(c) Bottled or packaged spirits disposed of by:

(1) Withdrawal on tax determination;

(2) Transfer in bond;

(3) Withdrawal free of tax or without payment of tax;

(4) Dumping for further processing;

(5) Transfer to the production account for redistillation;

(6) Voluntary destruction;

(7) Accountable losses;

(8) Samples;

(9) Inventory shortages and overages; and

(10) Other dispositions.

In lieu of showing the proof gallons of spirits on daily transaction records of withdrawals from bonded premises, proprietors may show the wine gallons or liters and the proof of spirits in cases. Summary records shall be used to compile the report required by § 19.792.

(Sec. 807, Pub. L. 96–39, 93 Stat. 283, as amended (26 U.S.C. 5207))

### § 19.752 Denaturation records.

(a) *General.* Each processor qualified to denature spirits shall maintain daily records of denaturation showing:

(1) Spirits received for, and used in, denaturation;

(2) Spirits, denatured spirits, recovered denatured spirits, spirits residues, and articles redistilled in the processing account for denaturation;

(3) Kind and quantity of denaturants received, used in denaturation of spirits, or otherwise disposed of;

(4) Conversion of denatured alcohol formulas in accordance with § 19.460;

(5) Denatured spirits produced, received, stored in tanks, filled into containers, removed, or otherwise disposed of;

(6) Recovered denatured spirits or recovered articles received, restored, and/or redenatured;

(7) Packages of denatured spirits filled with a separate record for each formula number and filed in numerical order according to the serial number or lot identification number of the packages;

(8) Losses; and

(9) Disposition of denatured spirits.

(b) *Record of denaturation*. Each time spirits are denatured, a record shall be prepared to show the formula number, the tank in which denaturation takes place, the proof gallons of spirits before denaturation, the quantity of each denaturant used (in gallons, or in pounds or ounces), and wine gallons of denatured spirits produced.

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

### § 19.753 Record of article manufacture.

Each processor qualified to manufacture articles shall maintain daily records arranged by the name and authorized use code of the article to show the following:

(a) Quantity, by formula number of denatured spirits used in the manufacture of the article;

(b) Quantity of each article manufactured; and

(c) Quantity of each article removed, or otherwise disposed of, including the name and address of the person to whom sold or otherwise disposed of.

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

## TAX RECORDS

SOURCE: Sections 19.761 through 19.765 added by T.D. ATF–297, 55 FR 18064, Apr. 30, 1990, unless otherwise noted.

### § 19.761 Record of tax determination.

A serially numbered invoice or shipping document, signed or initialed by an agent or employee of the proprietor, will constitute the record of tax determination. Although neither the proof gallons nor effective tax rates need be shown on the record of tax determination, there shall be shown on each invoice or shipping document sufficient information to enable appropriate TTB officers to determine the total proof gallons and, if applicable, each effective tax rate and the proof gallons removed at each effective tax rate. For purposes of this part, the total proof gallons calculated from each invoice or shipping document constitutes a single withdrawal.

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

### § 19.762 Daily summary record of tax determinations.

Each proprietor of a distilled spirits plant who withdraws distilled spirits on determination of tax, but before payment of tax, shall maintain a daily summary record of tax determinations. The summary record will show, for each day on which tax determinations occur:

(a) The serial numbers of the records of tax determination, the total proof gallons, rounded to the nearest tenth proof gallon on which tax was determined at each effective tax rate, and the total tax; or

(b) The serial numbers of the records of tax determination, the total tax for each record of tax determination and the total tax.

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

### § 19.763 Record of average effective tax rates.

(a) For each distilled spirits product to be tax determined in accordance with § 19.37, the proprietor shall prepare a daily summary record showing the—

(1) Serial number of the batch record of each batch of the product which will be bottled or packaged, in whole or in part, for domestic consumption;

(2) Proof gallons in each such batch derived from distilled spirits, eligible wine, and eligible flavors; and

(3) Tax liabilities of each such batch determined as follows:

(i) Proof gallons of all distilled spirits (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed in 26 U.S.C. 5001;

(ii) Wine gallons of each eligible wine, multiplied by the tax rate which would be imposed on the wine under 26 U.S.C. 5041(b)(1), (2), or (3) but for its removal to bonded premises; and

(iii) Proof gallons of all distilled spirits derived from eligible flavors to the extent that such distilled spirits exceed 2½% of the proof gallons in the product, multiplied by the tax rate prescribed in 26 U.S.C. 5001.

(b) At the end of each month during which the product is manufactured, the proprietor shall determine the—

(1) Total proof gallons and total tax liabilities for each summary record prescribed by paragraph (a) of this section;

(2) Add the sums from paragraph (b)(1) of this section to the like sums determined for each of the preceding five months; and

(3) Divide the total tax liabilities by the total proof gallons.

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

### § 19.764 Inventory reserve records.

(a) *General.* The proprietor shall establish an inventory reserve account, as provided in this section, for each eligible distilled spirits product to be tax determined in accordance with § 19.38.

(b) *Deposit records.* For each batch of the product bottled or packaged, the proprietor shall enter into the inventory reserve account a deposit record, which may be combined with the bottling and packaging record required by § 19.749 showing the:

(1) Name of the product;

(2) Bottling and packaging record serial number;

(3) Date the bottling or packaging was completed;

(4) Total proof gallons bottled and packaged; and

(5) Effective tax rate of the product computed in accordance with § 19.34.

(c) *Depletions.* The inventory reserve account for each product will be depleted in the same order in which the deposit records were entered into such account. A depletion will be recorded for each disposition (e.g., a taxable removal, an exportation, an inventory shortage or breakage) by entering on the deposit record the:

(1) Transaction date,

(2) Transaction record serial number,

(3) Proof gallons disposed of, and

(4) Proof gallons remaining. If any depletion exceeds the quantity of product remaining on the deposit record, the remaining quantity will be depleted, the deposit record closed, and the remainder of the transaction depleted from the next deposit record.

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

### § 19.765 Standard effective tax rates.

For each product to be tax determined using a standard effective tax rate in accordance with § 19.36, the proprietor shall prepare a record of the standard effective tax rate computation showing, for one proof gallon of the finished product, the following information:

(a) The name of the product;

(b) The least quantity of each eligible flavor which will be used in the product, in proof gallons, or 0.025 proof gallon, whichever is less;

(c) The least quantity of each eligible wine which will be used in the product, in proof gallons;

(d) The greatest effective tax rate applicable to the product, calculated in accordance with § 19.34 with the values indicated in paragraphs (a) and (b) of this section; and

(e) The date on which the use of the standard effective tax rate commenced.

## OTHER RECORDS

### § 19.766 Record of samples.

(a) *Requirement.* The proprietor shall maintain records of all samples taken pursuant to subpart V of this part.

(b) *Schedule.* (1) When the proprietor takes samples pursuant to an established schedule, such schedule may be maintained as the required record if it contains that information required by paragraphs (c)(2) through (c)(8).

(2) When unanticipated samples are taken, the schedule shall be appropriately supplemented.

(c) *Detail.* Sample records shall show:

(1) Date samples were taken;

(2) Type and identification of container from which taken;

(3) Account from which taken;

(4) Purpose for which taken;

(5) Size and number of samples taken;

(6) Kind of spirits;

(7) Disposition of the sample (e.g., destroyed, returned to containers or the distilling system, retained for library purposes); and

(8) Name and address of the person to whom samples were sent when the samples are to be analyzed or tested elsewhere than at the plant where secured.

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

### § 19.767 Record of destruction.

The proprietor shall record details of the voluntary destruction of spirits, denatured spirits, articles, or wines as follows:

(a) Identification of the spirits, denatured spirits, articles, or wines to include, as applicable, kind, quantity, elements of gauge, name and permit number of the producer, warehouseman or processor, and identification and type of container.

(b) The date, time, place and manner of the destruction;

(c) A statement of whether or not the spirits had previously been withdrawn and returned to bond; and

(d) The name and title of the proprietor's representative who accomplished or supervised the destruction.

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

### § 19.768 Gauge record.

When gauges are required to be made by this part or by the appropriate TTB officer, the proprietor shall prepare a gauge record to show:

(a) Serial number, commencing with ''1'' at the start of each calendar or fiscal year;

(b) Reason for making the gauge:

(1) Production gauge and entry for deposit in the storage or processing account at the plant where produced;

(2) Packaging of spirits or wine filled from a tank in the storage account at the same plant;

(3) Transfer from the processing or storage account to the production account for redistillation;

(4) Repackaging of spirits of 190 degrees or more of proof; or

(5) Gauge on return to bond in the production or processing account of spirits, denatured spirits, recovered spirits, recovered denatured spirits, articles, recovered articles, or spirits residues.

(c) Date of gauge;

(d) Related form or record (identification, serial number and date);

(e) Kind of spirits or formula number of denatured spirits;

(f) Proof of distillation (not required for denatured spirits, spirits for redistillation, or spirits of 190 degrees or more of proof);

(g) When containers are to be filled, the type and number of containers;

(h) Age of spirits;

(i) Name and plant number of the producer or warehouseman; and

(j) Gauge data:

(1) Package identification, tank number, volumetric or weight gauge details, proof, and wine gallons;

(2) Cooperage identification (''C'' for charred, ''REC'' for recharred, ''P'' for plain, ''PAR''for paraffined, ''G'' for glued, or ''R'' for reused);

(3) Entry proof for whiskey;

(4) Proof gallons per filled package; and

(5) Total proof gallons of spirits or wine gallons of denatured spirits, recovered denatured spirits, articles, spirits residues, or wine.

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

### § 19.769 Package gauge record.

When required by this part and Part 28, a record shall be prepared to document the gauge of packages of spirits and to convey information on package gauges. The following information shall be recorded:

(a) Date prepared;

(b) Identification of the related transaction form or record, and its serial number;

(c) The name and plant number of the producer or processor (For blended rums or brandies enter name(s) and plant number of blending warehouseman. For spirits of 190 degrees or more of proof, name and plant number of the producer or warehouseman, as appropriate; where the packages have already been marked, the name and plant number marked thereon. For imported spirits, the name of the warehouseman who received the spirits from customs

custody and name of importer. For Virgin Islands or Puerto Rican spirits, the name of the producer in the Virgin Islands or Puerto Rico);

(d) proof of distillation for spirits not over 190 degrees proof; and

(e) For each package—

(1) Serial or identification number;

(2) Designate wooden barrels as ''C'' for charred, ''REC'' for recharred, ''P'' for plain, ''PAR'' for paraffined, ''G'' for glued, ''R'' for reused, and ''PS'' if a barrel has been steamed or water soaked before filling;

(3) Kind of spirits;

(4) Gross weight determined at the time of original gauge, regauge, or at time of shipment;

(5) Present tare on regauge;

(6) Net weight for filling gauge or regauge;

(7) Proof;

(8) Proof gallons for regauge;

(9) Original proof gallons; and

(10) Receiving weights, when a material difference appears on receipt after transfer in bond of weighed packages.

(Approved by the Office of Management and Budget under control number 1512–0250)

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23953, June 7, 1985; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 19.770 Transfer record.

(a) *Consignor.* When required by this part, proprietors shall prepare a transfer record. The transfer record shall show: (1) Serial number, commencing with ''1'' on January 1 of each year;

(2) Serial number and date of TTB Form 5100.16 (not required for wine spirits withdrawn without payment of tax for use in wine production);

(3) Name and distilled spirits plant number of consignor;

(4) Name and distilled spirits plant number or bonded wine cellar number of the consignee;

(5) Account from which the spirits or wines were removed for transfer (i.e., production, storage, or processing account);

(6) Description of the spirits, denatured spirits, or wine—

(i) Name and plant number of the producer, warehouseman or processor (Not required for denatured spirits or wine. For imported spirits, record the name and plant number of the warehouseman or processor who received the spirits from customs custody. For transfer of imported spirits from customs custody to TTB bond, record the name of the foreign producer. For Virgin Islands or Puerto Rican spirits, show the name of the producer in the Virgin Islands or Puerto Rico. For spirits of different producers or warehousemen which have been mixed in the processing account, record the name of the processor.);

(ii) Kind of spirits or wines (For denatured spirits, show kind and formula number. For alcohol, show material from which produced. For bulk spirits and for alcohol in packages, show kind and proof. For other spirits and wines, use kind designation as defined in 27 CFR Part 4 or 5 as appropriate);

(iii) Age (in years, months, and days) and year of production;

(iv) Number of packages or cases with their lot identification numbers or serial numbers and date of fill;

(v) Type of container (If spirits, denatured spirits or wines are to be transferred by pipeline, show ''P/L''.);

(vi) Proof gallons for distilled spirits, or wine gallons for denatured spirits or wine;

(vii) Conveyance identification; and

(viii) For distilled spirits products which contain eligible wine or eligible flavors, the elements necessary to compute the effective tax rate as follows:

(A) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(B) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(C) Proof gallons of distilled spirits derived from eligible flavors.

(7) Notation to indicate when spirits are being transferred in bond from production facility to another plant;

(8) Identification of seals, locks or other devices affixed to the conveyance or package (Permanent seals affixed to a conveyance and which remain intact need not be recorded on the transfer record when a permanent record is maintained);

(9) Date; and

(10) Signature and title of the consignor with the penalties of perjury statement required by § 19.100.

(b) *Consignee.* (1) When a proprietor receives wine from a bonded wine cellar, the consignee shall complete Form 703 covering such transfer in accordance with the instructions thereon.

(2) When a proprietor receives spirits from an alcohol fuel plant or from customs custody, or spirits, denatured spirits and wines from the bonded premises of another distilled spirits plant, he shall record the results of such receipt on the related transfer record as follows:

(i) Date of receipt;

(ii) Notation whether the securing devices on the conveyance were or were not intact on arrival (not applicable to spirits transferred in unsecured conveyances or denatured spirits);

(iii) Gauge of spirits, denatured spirits, or wine showing the tank number, proof (percent of alcohol by volume for wine) and elements of the weight or volumetric determination of quantity, wine gallons or proof gallons received, and any losses or gains;

(iv) Notation of excessive in-transit loss, missing packages, tampering, or apparent theft;

(v) Account into which the spirits, denatured spirits or wines were deposited (i.e., production, storage or processing); and

(vi) Signature and title of the consignee with the penalties of perjury statement required by § 19.100.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18065, Apr. 30, 1990; 55 FR 23635, June 11, 1990]

### §§ 19.771–19.772 [Reserved]

### § 19.773 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of general plant premises, or operates taxpaid storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all reclosing and relabeling operations. The provisions of this section shall also apply to products returned to a wholesale liquor dealer or taxpaid storeroom from the market. A separate record shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary (consisting of or supported by records including bills of lading and invoices) to enable appropriate TTB officers to identify and trace such receipt and dispositions and to ascertain whether there has been compliance with all laws and regulations relating thereto. In addition to any other information shown therein, such records shall include:

(a) *For receipts and dispositions*—

(1) The date of the transaction (or date of discovery in the case of casualty or theft);

(2) The name and address of each consignor or consignee, as the case may be;

(3) The brand name;

(4) The kind of spirits;

(5) The actual quantity of distilled spirits involved (proof and proof gallons if in packages, wine gallons or liters and proof if in bottles);

(6) The package identification or serial numbers of packages involved;

(7) The name of the producer; and

(8) The country of origin, if imported spirits.

(b) *For case dispositions*—In addition to the requirements listed in paragraph (a) of this section the appropriate TTB officer may, upon notice to the dealer, require the recording of case serial numbers for dispositions.

(c) *For reclosing or relabeling operations*—

(1) The date of the transaction;

(2) The serial numbers of cases involved;

(3) The total number of bottles;

(4) The name of the bottler; and

(5) The number and kind of strip stamps used and/or the number of alternative devices used.

(Approved by the Office of Management and Budget under control number 1512–0198)

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23953, June 7, 1985]

### § 19.774 Record of inventories.

(a) *General.* Each proprietor shall make a record of inventories of spirits, denatured spirits, and wines required by §§ 19.329, 19.353, 19.401, 19.402, and 19.464. The following information shall be shown:

(1) Date taken;

(2) Identification of container(s);

(3) Kind and quantity of spirits, denatured spirits, and wines;

(4) Losses (whether by theft, voluntary destruction or otherwise), gains or shortages; and

(5) Signature, under penalties of perjury, of the proprietor or person taking the inventory.

(b) *Production.* Each proprietor shall record the quarterly inventory of spirits as provided in paragraph (a) of this section.

(c) *Storage.* (1) Each proprietor shall record the quarterly inventory of spirits and wines (except those in packages) as provided in paragraph (a) of this section.

(2) Gains or losses disclosed for each container shall be recorded on the current tank record (or summary record for spirits of 190 degrees or more of proof).

(d) *Processing.* Each proprietor shall record inventories as provided in paragraph (a) of this section, and for:

(1) Bulk spirits and wines in process, any gains or losses shall be recorded on the individual dump, batch, or bottling record;

(2) Finished products in bottles and packages, any overages, losses, and shortages for the total quantity inventoried shall be recorded in records required by § 19.751; and

(3) Denatured spirits, any gains or losses shall be recorded in the record prescribed by § 19.752.

(e) *Retention.* Inventory records shall be retained by the proprietor and made available for inspection by appropriate TTB officers.

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

### § 19.775 Record of securing devices.

Each proprietor shall maintain a record of securing devices by serial number showing the number received, affixed to conveyances (in serial order), and otherwise disposed of.

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

### § 19.776 Record of scale tests.

Proprietors shall maintain records of results of tests conducted in accordance with § 19.273 and § 19.276.

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

### § 19.777 [Reserved]

### § 19.778 Removal on or after January 1, 1987 of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas.

(a) *General.* The proprietor shall maintain separate accounts, in proof gallons, of Puerto Rican spirits having an alcoholic content of at least 92 percent rum, of Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of rum imported from all other areas removed from the processing account on determination of tax. Quantities of spirits in these categories that are contained in products mixed in processing with other alcoholic ingredients may be determined by using the methods provided in paragraphs (b), (c), or (d) of this section. The proprietor shall report these quantities monthly on Form 5110.28, Monthly Report of Processing Operations, as provided in § 19.792.

(b) *Standard method.* For purposes of the separate accounts, quantities of spirits in the above categories may be determined based on the least amount of such spirits which may be used in each product as stated in the approved formula, TTB F 5110.38.

(c) *Averaging method.* For purposes of the separate accounts, quantities of spirits in the above categories may be determined by computing the average quantity of such spirits contained in

all batches of the same product formulation manufactured during the preceding 6-month period. The average shall be adjusted at the end of each month so as to include only the preceding 6-month period.

(d) *Alternative method.* Distilled spirits plant proprietors who wish to use an alternative method for determining the amount of spirits in these categories contained as ingredients of other distilled spirits products shall file an application with the appropriate TTB officer. The written application shall specifically describe the proposed alternative method, and shall set forth the reasons for using the alternative method.

(e) *Transitional rule.* On January 1, 1987 the proprietor shall take physical inventories of all Puerto Rican spirits, Virgin Islands spirits, and rum imported from all other areas which were received into the processing account prior to that date. These inventories may be taken as provided in § 19.402(a)(2). The results of the inventories shall be submitted in a letter to the appropriate TTB officer within 30 days of the required date of the inventories.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5555))

[T.D. ATF–239, 51 FR 40026, Nov. 4, 1986]

### § 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))

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985]

### § 19.780 Record of distilled spirits shipped to manufacturers of nonbeverage products.

(a) *General.* Where distilled spirits are shipped to a manufacturer of nonbeverage products, the proprietor shall prepare a record of shipment, forward the original to the consignee, and retain a copy.

(b) *Form of record.* The record of tax determination prescribed by § 19.761, or any other document issued by the proprietor and containing the necessary information, may be used as the record of shipment.

(c) *Required information.* In addition to any other information on the document, the document used as the record of shipment must contain the following information:

(1) Name, address and registry number of the proprietor;

(2) Date of shipment;

(3) Name and address of the consignee;

(4) Kind, proof, and quantity of distilled spirits in each container;

(5) Number of containers of each size;

(6) Package identification numbers or serial numbers of containers;

(7) Serial number of the applicable record of tax determination; and

(8) For distilled spirits containing eligible wine or eligible flavors, the effective tax rate.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201 Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

[T.D. ATF–297, 55 FR 18065, Apr. 30, 1990, as amended by T.D. ATF–379, 61 FR 31426, June 20, 1996]

SUBMISSION OF FORMS AND REPORTS

### § 19.791 Submission of transaction forms.

Completed copies of transaction forms which must be submitted to the appropriate TTB officer under the provisions of this part shall be submitted by the proprietor no later than the close of business the third business day succeeding the day of the transaction as provided by this part and by instructions on the individual forms.

(Sec. 807, Pub. L. 97–39, 93 Stat. 284 (26 U.S.C. 5207))

### § 19.792 Reports.

(a) Reports required by this section shall be prepared as of the end of the applicable reporting period. The original shall be submitted to the appropriate TTB officer and a copy retained by the proprietor.

(b) Proprietors shall submit the following summary reports of their operations:

| Title | Form No. | Reporting period |
|---|---|---|
| (1) Production report | 5110.40 | Monthly. |
| (2) Storage report | 5110.11 | Do. |
| (3) Processing reports— | | |
| (i) Manufacture/bottling | 5110.28 | Do. |
| (ii) Denaturation (including articles). | 5110.43 | Do. |

(c) All reports required by this part shall be prepared and submitted to the appropriate TTB officer not later than the 15th day of the month following the close of the reporting period.

(Approved by the Office of Management and Budget under control number 1512–0198)

(Sec. 807, Pub. L. 96–39, 98 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23953, June 7, 1985]

## Subpart X—Production of Vinegar by the Vaporizing Process

SCOPE OF SUBPART

### § 19.821 Production of vinegar by the vaporizing process.

The regulations in this subpart relate to the production of vinegar by the vaporizing process. The regulations cover requirements governing the location, qualification, changes after qualification, construction, equipment, plant operations and records of operations at vinegar plants. Except where incorporated by reference, the provisions of subpart A through W and subpart Y of this part do not apply to vinegar plants using the vaporizing process. The following provisions of this part shall apply to this subpart: the meaning of terms, § 19.11; other businesses, § 19.68; right of entry and examination, § 19.81; furnishing facilities and assistance, § 19.86; restrictions as to location, § 19.131; registry of stills, § 19.169; and maintenance and preservation of records, § 19.723.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1391, as amended (26 U.S.C. 5501–5505))

QUALIFICATION DOCUMENTS

### § 19.822 Application.

Each person, before commencing the business of manufacturing vinegar by the vaporizing process shall make written application to the appropriate TTB officer. The application will include:

(a) The applicant's name and principal business address (including the plant address if different from the principal business address);

(b) Description of the extent of the premises;

(c) Description of the type of operations to be conducted; and

(d) Description of the stills including the name and residence of the owner, the kind of still, its capacity and the purpose for which it was set up.

The applicant shall receive and approved application from the appropriate TTB officer prior to commencing business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

### § 19.823 Changes after original qualification.

When there is a change in the information recorded in the original approved application, the proprietor shall make a written notice of the change to the appropriate TTB officer. The notice will identify the change and the effective date of the change.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

### § 19.824 Notice of permanent discontinuance of business.

A proprietor who intends to permanently discontinue operations shall make written notice to the appropriate TTB officer. The proprietor shall include in the notice a statement of the status of the stills.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

## CONSTRUCTION AND EQUIPMENT

### § 19.825 Construction and equipment.

A proprietor of a vinegar plant shall construct and equip the vinegar plant so that—

(a) The distilled spirits vapors that are separated by the vaporizing process from the mash produced by the manufacturer are condensed only by introducing them into the water or other liquid used in making the vinegar; and

(b) The distilled spirits produced can be accurately accounted for and are secure from unlawful removal from the premises or from unauthorized use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

## PLANT OPERATIONS

### § 19.826 Authorized operations.

Vinegar manufacturers qualified under this subpart are authorized to—

(a) Produce vinegar only by the vaporizing process; and

(b) Produce distilled spirits of 30 degrees of proof or less only for use in the manufacture of vinegar on the vinegar plant premises.

### § 19.827 Conduct of operations.

Vinegar manufacturers qualified under this subpart may—

(a) Separate by a vaporizing process the distilled spirits from the mash produced by him; and

(b) Condense the distilled spirits vapors by introducing them into the water or other liquid used in making the vinegar.

### § 19.828 Removals from the premises.

No person shall remove from the vinegar plant premises vinegar or other fluid or material containing more than 2% alcohol by volume.

## RECORDS

### § 19.829 Daily records.

Each manufacturer of vinegar by the vaporizing process shall keep accurate and complete daily records of production operations that include—

(a) The kind and quantity of fermenting or distilling materials received on the premises;

(b) The kind and quantity of materials fermented or mashed;

(c) The proof gallons of distilled spirits produced;

(d) The proof gallons of distilled spirits used in the manufacture of vinegar;

(e) The wine gallons of vinegar produced; and

(f) The wine gallons of vinegar removed from the premises.

Separate government records need not be kept as long as commercial records contain all the required information.

## ADMINISTRATIVE AND MISCELLANEOUS

### § 19.830 Application of distilled spirits tax.

The internal revenue tax must be paid on any distilled spirits produced in or removed from the premises of a vinegar plant in violation of law or this subpart.

## Subpart Y—Distilled Spirits For Fuel Use

### § 19.901 Scope of subpart.

This subpart implements 26 U.S.C. 5181, which authorizes the establishment of distilled spirits plants solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use. This subpart relates to the qualification and operation of such distilled spirits plants. Distilled spirits plants established under this subpart are designated as alcohol fuel plants.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.902 Waiver for alcohol fuel plants.

All provisions of subparts A through X of this part and all provisions of 26 U.S.C. Chapter 51 are hereby waived except:

(a) Any provision specifically incorporated by reference in this subpart and the cited authority for that provision;

(b) Any provision requiring the payment of tax;

(c) Any provisions dealing with penalty, seizure, or forfeiture which is applicable to distilled spirits; and

(d) 26 U.S.C. 5181.

(Sec. 232, Pub. L. 93–224, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.903 Alternate methods or procedures.

The proprietor, on specific approval by the appropriate TTB officer as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this subpart or subparts A through X of this part where the provisions of those subparts have been incorporated by reference in this subpart. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when he finds that—

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

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

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

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.904 Emergency variations from requirements.

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

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

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

(c) Will not be contrary to any applicable provisions of law. Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the appropriate TTB officer. The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when the emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the appropriate TTB officer, via telephone. The proprietor shall retain, as part of the records available for examination by appropriate TTB officers, any application approved by the appropriate TTB officer under the provisions of this section.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.905 Taxes.

Distilled spirits may be withdrawn free of tax from the premises of an alcohol fuel plant exclusively for fuel use in accordance with this subpart. Payment of tax will be required in the case of diversion of spirits to beverage use or other unauthorized dispositions. The provisions of subpart C of this part are applicable to distilled spirits for fuel use as follows:

(a) Imposition of tax liability (§§ 19.21 through 19.25);

(b) Assessment of tax (§§ 19.31 and 19.32); and

(c) Claims for tax (§§ 19.41 and 19.44).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

[T.D. ATF–207, 50 FR 23682, June 5, 1985]

### § 19.906 Special (occupational) tax.

(a) *General rule.* A proprietor of an alcohol fuel plant established under this subpart shall be subject to a special (occupational) tax as prescribed in subpart Ca of this part, and shall hold a separate special tax stamp to cover the alcohol fuel operations except during the suspension period described in § 19.49(a)(3) when special tax stamps are not issued.

(b) *Exemption for small plants (effective July 1, 1989).* On and after July 1, 1989, paragraph (a) of this section shall not apply to small alcohol fuel plants as defined in § 19.907. If the annual production (including receipts) of a small plant exceeds 10,000 proof gallons in any calendar year, special tax is due as provided in § 19.49(a)(1) for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application for change of plant type under § 19.921(a) has been filed or approved. If a medium or large plant produces 10,000 or fewer proof gallons (including receipts) in any calendar year, the plant shall be exempt from special tax under this paragraph, as for a small plant, for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application under § 19.921(c) has been filed or approved.

(26 U.S.C. 5081)

[T.D. ATF–271, 53 FR 17543, May 17, 1988, as amended by T.D. ATF–285, 53 FR 12609, Mar. 28, 1989; T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. TTB–36, 70 FR 62243, Oct. 31, 2005]

## DEFINITIONS

### § 19.907 Meaning of terms.

When used in this subpart, and in forms prescribed under this subpart, terms shall have the meaning given in this section. Words in the plural form include the singular and vice versa, and words indicating the masculine gender include the feminine. The terms ''includes'' and ''including'' do not exclude

things not enumerated which are in the same general class.

*Alcohol fuel plant or plant.* An establishment qualified under this subpart solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use.

*Alcohol fuel producer's permit.* The document issued pursuant to 26 U.S.C. 5181 authorizing the person named therein to engage in business as an alcohol fuel plant.

*Bonded premises.* The premises of an alcohol fuel plant where distilled spirits are produced, processed and stored, and used or distributed. Premises of small alcohol fuel plants, which are exempt from bonding under § 19.912(b), shall be treated as bonded premises for purposes of this subpart.

*CFR.* The Code of Federal Regulations.

*Fuel alcohol.* Distilled spirits which have been rendered unfit for beverage use at an alcohol fuel plant as provided in this subpart.

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

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

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

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

*Proprietor.* The person qualified under this subpart to operate the alcohol fuel plant.

*Render unfit for beverage use.* The addition to distilled spirits of materials which will not impair the quality of the spirits for fuel use as prescribed and authorized by the provisions of this subpart.

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

*Spirits or distilled spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced), but not fuel alcohol unless specifically stated. For purposes of this subpart, the term does not include spirits produced from petroleum, natural gas, or coal.

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

*Transfer in bond.* The transfer of spirits between alcohol fuel plants or the transfer of spirits to or from a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

*Type of plant.* The following three types of alcohol fuel plants are recognized in this subpart:

(a) *Small plant.* An alcohol fuel plant which produces (including receipts) not more than 10,000 proof gallons of spirits per calendar year.

(b) *Medium plant.* An alcohol fuel plant which produces (including receipts) more than 10,000 and not more than 500,000 proof gallons of spirits per calendar year.

(c) *Large plant.* An alcohol fuel plant which produces (including receipts) more than 500,000 proof gallons of spirits per calendar year.

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

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB–44, 71 FR 16933, Apr. 4, 2006]

PERMITS

## § 19.910 Application for permit required.

Any person wishing to establish an alcohol fuel plant shall first make application for and obtain an alcohol fuel producer's permit. The application for a permit will be on Form 5110.74. The application, in duplicate, will be submitted to the appropriate TTB officer. The description of stills on the approved application constitutes registration of stills as required by 27 CFR 196.45. Alcohol fuel producers' permits are continuing unless automatically terminated under § 19.920, suspended or revoked as provided in § 19.950, or voluntarily surrendered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5179); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.911 Criteria for issuance of permit.

In general, an alcohol fuel producer's permit will be issued to any person who completes the required application for permit and who furnishes the required bond (if any). However, the appropriate TTB officer may institute proceedings for the denial of the application, if the appropriate TTB officer determines that:

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

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

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue. The procedures applicable to denial of applications are set forth in 27 CFR Part 71.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.912 Small plants.

Persons wishing to establish a small plant shall apply for a permit as provided in this section. Except as provided in paragraph (c) of § 19.913, operations may not be commenced until the permit has been issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the appropriate TTB officer and shall set forth the following information:

(1) Name and mailing address of the applicant, and the location of the alcohol fuel plant if not apparent from the mailing address;

(2) A diagram of the plant premises and a statement as to the ownership of the premises (if the premises are not owned by the proprietor, the owner's consent to access by appropriate TTB officers must be furnished);

(3) A description of all stills and a statement of their maximum capacity;

(4) The materials from which spirits will be produced; and

(5) A description of the security measures to be used to protect premises, buildings and equipment where spirits are produced, processed, and stored.

(b) *Bond.* No bond is required for small plants.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.913 Action on applications to establish small plants.

(a) *Receipt by the appropriate TTB officer—(1) Notice of receipt.* Within 15 days of receipt of the application, the appropriate TTB officer shall send a written notice of receipt to the applicant. The notice will include a statement as to whether the application meets the requirements of § 19.912. If the application does not meet those requirements, the application will be returned and a new 15-day period will commence upon receipt by the appropriate TTB officer of the amended or corrected application.

(2) *Failure to give notice.* If the required notice of receipt is not sent, and the applicant has a receipt indicating that the appropriate TTB officer has received the application, the 45-day period provided for in paragraphs (b) and (c) of this section will commence on the fifteenth day after the date the appropriate TTB officer received the application.

(3) *Limitation.* The provisions of subparagraphs (1) and (2) of this section apply only to:

(i) The first application submitted with respect to any one small plant in any calendar quarter; and

(ii) An amended or corrected first application.

(b) *Determination by the appropriate TTB officer.* Within 45 days from the date the appropriate TTB officer sent the applicant a notice of receipt of a completed application, the appropriate TTB officer shall either (1) issue the permit, or (2) give notice in writting to the applicant, stating in detail the reason that a permit will not be issued. Denial of an application will not prejudice any further application for a permit made by the same applicant.

(c) *Presumption of approval.* If, within 45 days from the date of the notice to

the applicant of receipt of a completed application, the appropriate TTB officer has not notified the applicant of issuance of the permit or denial of the application, the application shall be deemed to have been approved and the applicant may proceed if a permit had been issued.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.914 Medium plants.

Any person wishing to establish a medium plant shall make application for and obtain in alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the appropriate TTB officer and shall set forth the following information:

(1) The information required by § 19.912 (a);

(2) Statement of maximum total proof gallons of spirits that will be produced and received during a calendar year:

(3) Information identifying the principal persons involved in the business and a statement as to whether the applicant or any such person has ever been convicted of a felony or misdemeanor under Federal or State law; and,

(4) Statement of the amount of funds invested in the business and the source of those funds.

(b) *Bond.* A bond of sufficient penal sum, as prescribed in § 19.957, is required. The bond must be submitted on Form 5110.56 and approved before a permit may be issued.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.915 Large plants.

Any person wishing to establish a large plant shall make application for and obtain an alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the appropriate TTB officer and shall set forth the following information:

(1) The information required by § 19.912(a);

(2) Statement of the maximum proof gallons of spirits that will be produced and received during a calendar year;

(3) Information identifying the principal persons involved in the business and a statement as to whether the applicant or any such person has ever been convicted of a felony or misdemeanor under Federal or State law;

(4) Statement of the amount of funds invested in the business and the source of those funds;

(5) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.916; and,

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

(b) *Bond.* A bond of sufficient penal sum, as prescribed in § 19.957, is required. The bond must be submitted on Form 5110.56 and approved before a permit may be issued.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.916 Organizational documents.

The supporting information required by paragraph (a)(5) of § 19.915, includes, as applicable, copies of—

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

(2) List of officers and directors, showing their names and addresses. However, do not list officers and directors who have no responsibilities in connection with the operation of the alcohol fuel plant.

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

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

(b) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in

each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the appropriate TTB officer.

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

(c) *Availability of additional documents.* The originals of documents required to be submitted under this section and additional items required under § 19.918 such as the articles of incorporation, bylaws, State certificate authorizing operations, or articles of partnership or association (in the case of a partnership where required by State law) shall be made available to any appropriate TTB officer upon request.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.917 Powers of attorney.

The proprietor of a large plant shall execute and file with the appropriate TTB officer a Form 1534 (5000.8), in accordance with instructions on the form, for each person authorized to sign or act on behalf of the proprietor (Not required for persons whose authority is furnished in the application).

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

### § 19.918 Information already on file and supplemental information.

If any of the information required by §§ 19.912 through 19.916 is on file with the appropriate TTB officer, that information, if accurate and complete, may be incorporated by reference and made a part of the application. When required by the appropriate TTB officer, the applicant shall furnish as a part of the application for permit, additional information as may be necessary to determine whether the application should be approved.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278, (26 U.S.C. 5181))

## CHANGES AFFECTING APPLICATIONS AND PERMITS

### § 19.919 Changes affecting applications and permits.

When there is a change relating to any of the information contained in, or considered a part of, the application on Form 5110.74, the proprietor shall within 30 days file with the appropriate TTB officer, a written notice, in duplicate, of such change. Where the change affects the terms and conditions of the permit the proprietor shall within 30 days (except as otherwise provided in this subpart), file with the appropriate TTB officer, in duplicate, an amended application on Form 5110.74.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.920 Automatic termination of permits.

(a) *Permits not transferable.* Permits issued under this subpart shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, or of the authorized operations, the permit automatically terminates.

(b) *Corporations.* In the case of a corporation holding a permit under this subpart, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permit may remain in effect until the expiration of 30 days after the change, whereupon the permit will automatically terminate. However, if operations are to be continued after the change in control, and an application for a new permit is filed within 30 days of the change, then the outstanding permit may remain in effect until final action is taken on the new application. When

final action is taken on the application, the outstanding permit automatically terminates.

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

### § 19.921 Change in type of alcohol fuel plant.

(a) *Small plants.* If the proprietor of a small plant wishes to increase production (including receipts) to a level in excess of 10,000 proof gallons of spirits per calendar year, the proprietor shall first furnish a bond and obtain an amended permit by filing application under § 19.914 or § 19.915, as applicable. Information filed with the original application for permit need not be resubmitted, but may be incorporated by reference in the new application.

(b) *Medium plants.* Where the proprietor of a medium plant intends to increase production (including receipts) above 500,000 proof gallons of spirits per calendar year, the proprietor shall first obtain an amended permit by filing an application under § 19.915. A new or strengthening bond may be required (see § 19.956). Information already on file may be incorporated by reference in the new application.

(c) *Curtailment of activities.* Proprietors of large or medium plants who have curtailed operations to a level where they are eligible to be requalified as medium or small plants may, on approval of a letter of application by the appropriate TTB officer, be relieved from the additional requirements incident to their original qualification. In the case of a change to small plant status, termination of the bond and relief of the surety from further liability shall be as provided in subpart H of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.922 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall, within 30 days of the change, file an application to amend the permit; a new bond or consent of surety is not required.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.923 Changes in officers, directors, or principal persons.

Where there is any change in the list of officers, directors, or principal persons, furnished under the provisions of § 19.914, § 19.915 or § 19.916, the proprietor shall submit, within 30 days of any such change, a notice in letter form stating the changes in officers, directors, or principal persons. A new list reflecting the changes will be submitted with the letter notice.

(Sec. 232, Pub. L. 96–233, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.924 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 19.945 and the successor shall, before commencing operations, apply for and obtain a permit and file the required bond (if any) in the same manner as a person qualifying as the proprietor of a new plant.

(b) *Fiduciary.* A successor to the proprietorship of a plant who is an administrator, executor, receiver, trustee, assignee or other fiduciary, shall comply with the applicable provisions of § 19.186(b).

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

### § 19.925 Continuing partnerships.

If under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. However, in the case of a large or a medium plant, a consent of surety must be filed, wherein the

surety and the surviving partner agree to remain liable on the bond. If the surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 19.924(a). The rule set forth in this section will also apply where there is more than one surviving partner.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.926 Change in location.

Where there is a change in the location of the plant or of the area included within the plant premises, the proprietor shall file an application to amend the permit and, if a bond is required, either a new bond or a consent of surety on Form 1533 (5000.18). Operation of the plant may not be commenced at the new location prior to issuance of the amended permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

## ALTERNATE OPERATIONS

### § 19.930 Alternating proprietorship.

(a) *General.* (1) An alcohol fuel plant, or a part thereof, may be operated alternately by proprietors if—

(i) The alcohol fuel plant and the proprietors are otherwise qualified under the provisions of this subpart, and

(ii) The necessary operations bonds (if any) and applications covering such operations have been filed with and approved by the appropriate TTB officer.

(2) Where alternating proprietorship is to be limited to a part of a plant, that part must be suitable for qualification as a separate plant.

(b) *Qualifying Documents.* Each person desiring to operate an alcohol fuel plant as an alternating proprietor shall file with the appropriate TTB officer:

(1) An application on Form 5110.74 to cover the proposed alternation of premises.

(2) Diagram of premises, in duplicate, showing the arrangement under which the premises will be operated. Diagrams will be prepared in accordance with paragraph (c) of this section.

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

(4) When required by the appropriate TTB officer, additional information as may be necessary to determine whether the application should be approved.

(c) *Diagram of premises.* Each person filing an application for operation of a plant as an alternating proprietor shall submit a diagram of the premises. Where operations by alternating proprietors are limited to parts of a plant, a diagram which designates the parts of the plant that are to be alternated will be submitted. A diagram will be submitted for each arrangement under which the premises will be operated. The diagram will be in sufficient detail to establish the boundaries of the plant or any part thereof which is to be alternated.

(d) *Alternation Journal.* Once the applications have been approved and initial operations conducted thereunder, the plant, or parts thereof, may be alternated. The outgoing and incoming proprietor shall enter into an alternation journal the following information:

(1) Name or trade name;

(2) Alcohol fuel plant permit number;

(3) Date and time of alternation; and

(4) Quantity of spirits transferred in proof gallons.

The alternation journal will remain in the possession of the incoming proprietor until the premises are again alternated whereupon it will be transferred to the new incoming proprietor.

(e) *Commencement of operations.* Except for spirits transferred to the incoming proprietor, the outgoing proprietor shall remove all spirits from areas, rooms, or buildings to be alternated, prior to the effective date and time shown in the alternation journal. Fuel alcohol may be either transferred to the incoming proprietor or may be retained by the outgoing proprietor in areas, rooms, or buildings to be alternated when the areas, rooms, or buildings are secured with locks, the keys to which are in the custody of the outgoing proprietor. Whenever operation of the areas, rooms, or buildings is to

be resumed by a proprietor following suspension of operations by an alternating proprietor, the outgoing proprietor (except proprietors of small plants) must furnish a consent of surety on Form 1533 (5000.18) to continue in effect the operations bond covering his operations. This is to be done prior to alternating the premises.

(f) *Records.* Each proprietor shall maintain separate records and submit separate reports. All transfers of spirits will be reflected in the records of each proprietor. The quantity of spirits and fuel alcohol transferred will be shown in the production and disposition records of the outgoing proprietor. The quantity of spirits transferred will be shown in the receipt record of the incoming proprietor. Each outgoing and incoming proprietor shall include spirits transferred in determinations of plant size and bond amounts. The provisions of § 19.921 regarding change in type of plant are applicable to each proprietor. Entries into these records will be in the manner prescribed in §§ 19.982, 19.984, and 19.986.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271; sec. 805(a), Pub. 96–39, 93 Stat. 275 (26 U.S.C. 5171); sec. 232 Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

PERMANENT DISCONTINUANCE OF BUSINESS

### § 19.945 Notice of permanent discontinuance.

A proprietor who permanently discontinues operations as an alcohol fuel plant shall, after completion of the operations, file a letterhead notice with the appropriate TTB officer. The notice shall be accompanied—

(a) By the alcohol fuel producer's permit, and by the proprietor's request that such permit be canceled;

(b) By a written statement disclosing, as applicable, whether (1) all spirits (including fuel alcohol) have been lawfully disposed of, and (2) any spirits are in transit to the premises; and

(c) By a report covering the discontinued operations (the report shall be marked ''Final Report'').

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

SUSPENSION OR REVOCATION OF PERMITS

### § 19.950 Suspension or revocation.

Whenever the appropriate TTB officer has reason to believe that any person holding an alcohol fuel producer's permit—

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

(b) Has violated conditions of the permit; or

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

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

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

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the appropriate TTB officer may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR part 71.

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

BONDS

### § 19.955 Bonds.

An operations bond is required for medium and large plants. The bond will be executed, in duplicate, on Form 5110.56. Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570. However, in lieu of corporate surety the proprietor may pledge and deposit as surety for his bond, securities

which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225. The appropriate TTB officer will not release such securities until liability under the bond for which they were pledged has been terminated.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); CH. 390, Pub. L. 80–280, 61 Stat. 648, 650 (31 U.S.C. 9301, 9303, 9304, 9306); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.956 Amount of bond.

The penal sum of the bond is based on the total quantity of distilled spirits to be produced (including receipts) during a calendar year. If the level of production and/or receipts at the plant is to be increased, and the bond is not in the maximum penal sum, a new or strengthening bond shall be obtained.

(a) *Medium plants.* A medium plant which will produce (including receipts) between 10,000 and 20,000 proof gallons of spirits per year requires a bond in the amount of $2,000. For each additional 10,000 proof gallons (or fraction thereof), the bond amount is increased $1,000. The maximum bond for a medium plant is $50,000.

(b) *Large plants.* The minimum bond for a large plant is $52,000 (more than 500,000, but not more than 510,000 proof gallons annual production (including receipts)). For each additional 10,000 (or fraction) proof gallons, the amount of the bond is increased $2,000. The maximum bond for a large plant is $200,000 (more than 1,240,000 proof gallons).

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); sec. 232, Pub. L. 96–233, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.957 Instructions to compute bond penal sum.

(a) *Medium plants.* To find the required amount of your bond, estimate the total proof gallons of spirits to be produced and received in a calendar year. The amount of the bond is $1,000 for each 10,000 proof gallons (or fraction), subject to a minimum of $2,000 and a maximum of $50,000. The following table provides some examples:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

| More than | But not over | Amount of bond |
|---|---|---|
| 10,000 | 20,000 | $2,000 |
| 20,000 | 30,000 | 3,000 |
| 90,000 | 100,000 | 10,000 |
| 190,000 | 200,000 | 20,000 |
| 490,000 | 500,000 | 50,000 |

(b) *Large plants.* To find the required amount of your bond, estimate the total proof gallons of spirits to be produced and received in a calendar year. The amount of the bond is $50,000 plus $2,000 for each 10,000 proof gallons (or fraction) over 500,000. The following table provides some examples:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

| More than | But not over | Amount of bond |
|---|---|---|
| 500,000 | 510,000 | $52,000 |
| 510,000 | 520,000 | 54,000 |
| 740,000 | 750,000 | 100,000 |
| 990,000 | 1,000,000 | 150,000 |
| 1,240,000 | ..... | 200,000 |

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173; sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.958 Conditions of bond.

The bond shall be conditioned on payment of all taxes (including any penalties and interest) imposed by 26 U.S.C. Chapter 51, on compliance with all requirements of law and regulations, and on payment of all penalties incurred or fines imposed for violations of any such provisions.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.959 Additional provisions with respect to bonds.

Subpart H of this part contains further provisions applicable to bonds which, where not inconsistent with this subpart, are applicable to bonds of alcohol fuel plants.

CONSTRUCTION, EQUIPMENT AND SECURITY

### § 19.965 Construction and equipment.

Buildings and enclosures where distilled spirits will be produced, processed, or stored shall be constructed and arranged to enable the proprietor to maintain security adequate to deter diversion of the spirits. Distilling equipment shall be constructed to prevent unauthorized removal of spirits, from the point where distilled spirits come into existence until production is complete and the quantity of spirits has been determined. Tanks and other vessels for containing spirits shall be equipped for locking and be constructed to allow for determining the quantities of spirits therein.

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

### § 19.966 Security.

Proprietors shall provide security adequate to deter the unauthorized removal of spirits. The proprietor shall store spirits either in a building, a storage tank, or within an enclosure, which the proprietor will keep locked when operations are not being conducted.

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

### § 19.967 Additional security.

If the appropriate TTB officer finds that security is inadequate to deter diversion of the spirits, as may be evidenced by the occurrence of break-ins or by diversion of spirits to unauthorized purposes, additional security measures may be required. Such additional measures may include, but are not limited to, the following:

(a) The erection of a fence around the plant or the alcohol storage facility;

(b) Flood lights;

(c) Alarm systems;

(d) Watchman services; or,

(e) Locked or barred windows.

The exact additional security requirements would depend on the extent of the security problems, the volume of alcohol produced, the risk to tax revenue, and safety requirements.

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

SUPERVISION

### § 19.970 Supervision of operations.

The appropriate TTB officer may assign appropriate TTB officers to premises of plants qualified under this subpart. The authorities of appropriate TTB officers, provided in §§ 19.81 through 19.84, and the requirement that proprietors furnish facilities and assistance to appropriate TTB officers, provided in § 19.86, apply to plants qualified under this subpart. The provisions of § 19.75 of this part pertaining to the assignment of appropriate TTB officers and hours of operation, to the extent deemed necessary by the appropriate TTB officer, are applicable to plants qualified under this subpart.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1320, as amended, 1356, as amended, 1357, as amended, 1358, as amended, 1375, as amended, 1396, as amended (26 U.S.C. 5006, 5201, 5203, 5204, 5213, 5555); sec. 806, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202); sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

ACCOUNTING FOR SPIRITS

### § 19.980 Gauging.

(a) *Equipment and method.* Proprietors shall gauge spirits by accurately determining the proof and quantity of spirits. The proof of the spirits shall be determined using a glass cylinder, hydrometer, and thermometer. Proprietors may account for fuel alcohol in wine gallons. Unless proprietors desire to do so, it is not necessary to determine the proof of fuel alcohol manufactured, on-hand, or removed. The Proprietor may determine quantity either by volume or weight. A tank or receptacle with a calibrated sight glass installed, a calibrated dipstick, conversion charts, meters (subject to approval by the appropriate TTB officer, or other devices or methods approved by the appropriate TTB officer, may be used to determine quantity by volume. The proprietor shall ensure that hydrometers, thermometers, and other equipment used to determine proof, volume, or weight are accurate. From

time to time appropriate TTB officers shall verify the accuracy of such equipment. Detailed procedures for gauging spirits are provided in 27 CFR part 30.

(b) *When Required.* Proprietors shall guage spirits and record the results in their records at the following times:

(1) On completion of production of distilled spirits;

(2) On receipt of spirits at the plant;

(3) Prior to the addition of materials to render the spirits unfit for beverage use;

(4) Before withdrawal from plant premises or other disposition of spirits (including fuel alcohol); and

(5) When spirits are to be inventoried.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1358, as amended (26 U.S.C. 5201, 5204))

### § 19.981 Inventories.

Proprietors shall take actual physical inventory of all spirits (including fuel alcohol) on bonded premises at least once during each period for which a report is required by § 19.988. The results of the inventory shall be posted in the applicable records required by § 19.982.

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

### § 19.982 Records.

(a) *All plants.* All proprietors shall maintain records with respect to: (1) The quantity and proof of spirits produced; (2) The proof gallons of spirits on-hand and received; (3) The quantities and types of materials added to render the spirits unfit for beverage use; (4) The quantity of fuel alcohol manufactured; and, (5) All dispositions of spirits (including fuel alcohol). Fuel alcohol may be recorded in wine gallons.

(b) *Medium and large plants.* Proprietors of medium and large plants shall also record the kind and quantity of materials used to produce spirits.

(c) *General requirements.* (1) The records must contain sufficient information to allow appropriate TTB officers to determine the quantities of spirits produced, received, stored, or processed and to verify that all spirits have been lawfully disposed of or used.

(2) Records which the proprietor prepares for other purposes (i.e. invoices or other commercial records) may be used to meet the record requirements of this subpart, so long as they show the required information.

(3) Where the format or arrangement of the record is such that the information is not clearly or accurately reflected, the appropriate TTB officer may require a format or arrangement which will clearly and accurately reflect the information.

(4) Entries required by this subpart to be made into records will be made on the day on which the operation or transaction occurs. However, these entries may be deferred until the third business day succeeding the day on which the operation or transaction occurs when the proprietor prepares commercial records concurrent with the individual operation or transaction.

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

### § 19.983 Spirits rendered unfit for beverage use in the production process.

Where spirits are rendered unfit for beverage use before removal from the production system, the proprietor shall enter into the production records, in addition to the quantity and proof of spirits produced, the kind and quantity of materials added to each lot of spirits. In such a case, a separate record under § 19.985 is not required. The quantity of spirits produced will be determined by substracting the quantity of materials added to render the spirits unfit for beverage use from the quantity of fuel alcohol produced and multiplying the resulting figure by the proof of each lot of spirits. The proprietor shall determine the proof of each lot of spirits. The proprietor shall procure a representative sample of each lot, prior to the addition of any material for rendering the spirits unfit for beverage use, and proof the sample in accordance with the provisions of § 19.980(a). This paragraph applies to in-line addition of materials and to systems in which, before any spirits come off the production equipment, the proprietor adds materials for rendering the spirits

unfit for beverage use to the first receptacle where spirits are to be deposited.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); sec. 232, Pub. L. 96–222, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.984 Record of spirits received.

The proprietor's copy of the consignor's invoice or other document received with the shipment, on which the proprietor has noted the date of receipt and quantity received, constitutes the required record.

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

### § 19.985 Record of spirits rendered unfit for beverage use.

The proprietor shall record the kind and quantity of materials added to render each lot of spirits unfit for beverage use and the quantity of fuel alcohol manufactured (which may be given in wine gallons).

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

### § 19.986 Record of dispositions.

(a) *Fuel alcohol removed.* For fuel alcohol removed from the plant premises, the commercial record or other document required by § 19.997 constitutes the required record.

(b) *Spirits transferred.* For spirits transferred in bond (including transfers from small plants) to a distilled spirits plant qualified under subpart G of this part or to another alcohol fuel plant, the commercial invoice or other document required by §§ 19.508 and 19.999 constitutes the required record.

(c) *Other dispositions.* For spirits or fuel alcohol used or otherwise disposed of (e.g., lost, destroyed, redistilled) on the premises of the alcohol fuel plant, the proprietor shall maintain a record as follows:

(1) The quantity of spirits (in proof gallons) or fuel alcohol (in gallons) and the date of disposition; and,

(2) The purpose for which used or the nature of the other disposition.

(d) *Separate records.* Records for dispositions of fuel alcohol and spirits will be maintained separately.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.987 Maintenance and retention of records.

The proprietor shall retain at the plant where an operation or transaction occurs the records required by this subpart for a period of not less than three years from the date thereof or from the date of the last entry made thereon, whichever is later. Whenever any record because of its condition becomes unsuitable for its intended or continued use the proprietor shall reproduce the record by a process approved by the appropriate TTB officer under the provisions of § 19.725. The records shall be available for inspectin by any appropriate TTB officer during business hours. For records maintained on data processing equipment, the provisions of § 19.723 apply.

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

### § 19.988 Reports.

Each proprietor shall submit an annual report of their operations, Form 5110.75, for the calendar year ending December 31. The proprietor shall submit this report to the appropriate TTB officer by January 30 following the end of the calendar year.

(Sec. 807, Pub. L. No. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF–327, 57 FR 32178, July 21, 1992]

## REDISTILLATION

### § 19.990 Redistillation of spirits or fuel alcohol received on the plant premises.

(a) *Receipts for redistillation.* Proprietors of alcohol fuel plants may receive and redistill spirits. Fuel alcohol may be received on the premises of an alcohol fuel plant for the recovery by redistillation of the spirits contained therein. Spirits and fuel alcohol received for redistillation will be identified as such and will be kept separate from other spirits and fuel alcohol on the premises

until redistilled. Spirits originally produced by the plant and subsequently recovered by redistillation will not be included in determinations of plant size and bond amounts. Spirits riginally produced at other plants and subsequently recovered by redistillation will be included in determinations of plant size and bond amounts.

(b) *Recordkeeping.* (1) The proprietor shall record in a separate record the following information for spirits and fuel alcohol received for redistillation.

(i) Date received;

(ii) Whether fuel alcohol or spirits;

(iii) Quantity received;

(iv) From whom received;

(v) Reason for redistillation;

(vi) Date redistilled; and

(vii) Quantity of spirits recovered by redistillation.

(2) The proprietor's commercial record required for spirits by § 19.999 or for fuel alcohol by § 19.997 and any other commercial record received covering spirits or fuel alcohol to be redistilled will be filed separately from other records. These records may be used in lieu of the record required by paragraph (b)(1) of this section when any missing information required to be shown has been entered upon the commercial record by the proprietor.

(c) *Status.* Spirits recovered by redistillation will be treated the same as spirits which have not been redistilled. All provisions of this subpart and 26 U.S.C. Chapter 51 (including liability for tax) applicable to spirits when originally produced are applicable to spirits recovered by redistillation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended, 1370, as amended (26 U.S.C. 5223, 5243); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

USES, WITHDRAWALS AND TRANSFERS

### § 19.995 Use on premises.

Spirits may be used as a fuel on the premises of the alcohol fuel plant at which produced and need not be rendered unfit for beverage use. Proprietors using spirits on the plant premises shall keep the applicable records concerning such dispositions as provided in § 19.986(c).

(Sec. 232, Pub. L. 96–223, 94 Stat. 278, (26 U.S.C. 5181))

### § 19.996 Withdrawal of spirits.

Before spirits may be withdrawn from the premises of an alcohol fuel plant, they must be rendered unfit for beverage use as provided in this subpart. Spirits rendered unfit for beverage use (fuel alcohol) may be withdrawn free of tax from plant premises exclusively for fuel use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.997 Withdrawal of fuel alcohol.

For each shipment or other removal of fuel alcohol from the plant premises the consignor shall prepare a commercial invoice, sales slip, or similar document. The consignor shall enter on the document the date, the quantity of fuel alcohol removed, a description of the shipment (for example, number and size of containers, tank truck, etc.), and the name and address of the consignee. The consignor shall retain a copy of the document as a record.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.998 Transfer in bond of spirits.

(a) *Transfer between alcohol fuel plants.* A proprietor may remove spirits from the bonded premises of an alcohol fuel plant (including the premises of a small plant) for transfer in bond to another alcohol fuel plant. Bulk conveyances in which spirits are transferred shall be secured with locks, seals or other devices as prescribed by § 19.96. The spirits need not be rendered unfit for beverage use prior to transfer. Spirits so transferred may not be withdrawn, used, sold, or otherwise disposed of for other than fuel use.

(b) *Transfer to or from other distilled spirits plants.* Spirits (not including spirits produced from petroleum, natural gas, or coal) may be transferred in bond from distilled spirits plants qualified under subpart G of this part to alcohol fuel plants. Alcohol fuel plants may transfer spirits in bond to distilled spirits plants qualified under subpart G of this part. Bulk conveyances in which spirits are transferred shall be secured with locks, seals, or other devices as prescribed by § 19.96. The spirits need not be rendered unfit for beverage use

prior to transfer. Spirits so transferred may not be withdrawn, used, sold, or otherwise disposed of for other than fuel use.

(c) *Transfer procedures.* The procedures in §§ 19.999 through 19.1001 pertain only to the transfer of spirits between alcohol fuel plants. The procedures in §§ 19.506 through 19.509 and 19.770 pertain to the transfer of spirits from an alcohol fuel plant to a distilled spirits plant qualified under 26 U.S.C. 5171. The alcohol fuel plant transferring in bond spirits filled into portable containers to the bonded premises of a distilled spirits plant qualified under 26 U.S.C. 5171 shall mark each container as required by § 19.1008(b). The procedures in §§ 19.508, 19.510 and 19.770 pertain to the transfer of spirits from a distilled spirits plant to an alcohol fuel plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5212); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.999 Consignor premises.

The consignor shall prepare, in duplicate, a commerical invoice or shipping document to cover each shipment of spirits. The consignor shall enter on the document the quantity of spirits transferred, the proof of the spirits transferred, a description of the shipment (for example, number and size of drums or barrels, tank truck, etc.), the name, address, and permit number of the consignor and of the consignee, and the serial numbers of seals, locks, or other devices used to secure the conveyance. The consignor shall forward the original of the document to the consignee with the shipment and retain the copy as a record.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5212))

### § 19.1000 Reconsignment in transit.

When, prior to or on arrival at the premises of a consignee, spirits transferred in bond are found to be unsuitable for the intended purpose, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another qualified consignee. In such case, the bond, if any, of the proprietor to whom the spirits are reconsigned shall cover such spirits while in transit after reconsignment. In addition, if the spirits are reconsigned to a distilled spirits plant qualified under subpart G of this part, an application to receive spirits by transfer in bond (on Form 5100.16) must have been previously approved for the consignee. Notice of cancellation of the shipment shall be made by the consignor to the consignee and the consignor shall note the reconsignemnt on his copy of the document covering the original shipment. Where the reconsignment is to another proprietor, a new document shall be prepared and prominently marked with the word ''Reconsignment''.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, (26 U.S.C. 5212); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.1001 Consignee premises.

(a) *General.* When spirits are received by transfer in bond, the proprietor shall examine each conveyance to determine whether the locks, seals, or other devices are intact upon arrival at his premises. If the locks, seals or other devices are not intact, he shall immediately notify the appropriate TTB officer, before removal of any spirits from the conveyance. The consignee shall determine the quantity of spirits received and record the quantity and the date received on the document received with the shipment. The consignee shall retain the document as the record of receipt required by § 19.984.

(b) *Portable containers.* When spirits are received in barrels, drums, or similar portable containers, the proprietor shall examine each container and, unless the transfer was made in a secured conveyance and the seals or other devices are intact on arrival, verify the contents of each container. The proprietor shall record the quantity received for each container on a list, and shall attach a copy of the list to the invoice or other document received with the shipment.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits received and

shall record the quantity so determined on the invoice or other document received with shipment. However, the appropriate TTB officer may waive the requirement for gauging spirits on receipt by pipeline if, because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5212); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.1002 Prohibited uses, transfers, and withdrawals.

No person shall withdraw, use, sell, or otherwise dispose of distilled spirits (including fuel alcohol) produced under this subpart for other than fuel use. The law imposes criminal penalties on any person who withdraws, uses, sells or otherwise disposes of distilled spirits (including fuel alcohol) produced under this subpart for other than fuel use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1398, as amended (26 U.S.C. 5601); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

## MATERIALS FOR RENDERING SPIRITS UNFIT FOR BEVERAGE USE

### § 19.1005 Authorized materials.

(a) *General.* The appropriate TTB officer shall determine and authorize for use materials for rendering spirits unfit for beverage use which will not impair the quality of the spirits for fuel use. Spirits treated under this section will be considered rendered unfit for beverage use and eligible for withdrawal as fuel alcohol.

(b) *List.* The appropriate TTB officer will compile and issue periodically a list of materials authorized for rendering spirits unfit for beverage use. The list will specify for each material (1) name and (2) quantity required to render spirits unfit for beverage use. The list may be obtained by accessing the TTB Web site (*http://www.ttb.gov*).

(c) *Authorized material.* Until issuance of the initial list of materials authorized for rendering spirits unfit for beverage use, proprietors are authorized to add to each 100 gallons of spirits any of the following materials in the quantities specified.

(1) 2 gallons or more of—

(i) Gasoline or automotive gasoline (for use in engines which require unleaded gasoline Environmental Protection Agency and manufacturers specifications may require that unleaded gasoline be used to render the spirits unfit for beverage use).

(ii) Kerosene,

(iii) Deodorized kerosene,

(iv) Rubber hydrocarbon solvent,

(v) Methyl isobutyl ketone,

(vi) Mixed isomers of nitropropane,

(vii) Heptane, or,

(viii) Any combination of (i) through (vii); or

(2) ⅛ ounce of denatonium benzoate N.F. and 2 gallons of isopropyl alcohol.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–249, 52 FR 5961, Feb. 27, 1987; T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 19.1006 Other materials.

If a proprietor desires to use a material not authorized under § 19.1005 to render spirits unfit for beverage use, the proprietor shall submit an application to the appropriate TTB officer. The application must state the name of the material and the quantity of material that the proprietor proposes to add to each 100 gallons of spirits. The proprietor may be required to submit an 8 ounce sample of the material with the application. Material that impairs the quality of the spirits for fuel use will not be approved. The proprietor shall not use any proposed material prior to its approval. Materials approved for use under this section will appear in the next subsequent issuance of the list of materials authorized for rendering spirits unfit for beverage use provided for under § 19.1005. The proprietor shall retain as part of the records available for inspection by appropriate TTB officers, any application approved by the appropriate TTB officer under the provisions of this section.

(Sec. 232, Pub. L. 96–233, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.1007 Samples.

A proprietor may take samples of spirits and fuel alcohol for testing and analysis. Samples of spirits may not be

removed from the premises of the alcohol fuel plant. Samples of fuel alcohol may be removed from the premises of the alcohol fuel plant to a bona fide laboratory for testing and analysis. The proprietor shall indicate on sample containers that the spirits or fuel alcohol contained therein is a sample. The proprietor shall account for samples in the record provided for in § 19.986.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

MARKS

### § 19.1008 Marks.

(a) *Fuel alcohol.* The proprietor shall conspicuously and permanently mark or securely label each container of fuel alcohol containing 55 gallons or less that will be withdrawn from the plant premises, as follows:

WARNING

FUEL ALCOHOL

MAY BE HARMFUL OR FATAL IF SWALLOWED

The mark or label shall be placed on the head or side of the container, and shall be in plain legible letters. Proprietors may place other marks or labels on containers so long as they do not obscure the required mark.

(b) *Spirits.* When barrels, drums or similiar portable containers of spirits are to be transferred by a proprietor to a distilled spirits plant qualified under subpart G of this part, each container will be marked or labeled in plain legible letters on the side or head to show the following information:

(1) Quantity in wine gallons;

(2) Proof;

(3) Serial number of container;

(4) Name, address (city or town and State) and permit number of the alcohol fuel plant; and

(5) The words ''Spirits-For Alcohol Fuel Use Only''.

Proprietors may place other marks or labels on such containers so long as they do not obscure the required mark. Serial numbers will be assigned consecutively commencing with ''1''. When the numbering of any series reaches ''1,000,000'', the proprietor may recommence the series. The recommenced series will be given an alphabetical prefix or suffix. Where there is a change in proprietorship, or in the individual, firm, corporate name or trade name, the series in use at the time of the change may be continued.

(Sec. 232, Pub. L. 96–233, 94 Stat. 278, (26 U.S.C. 5181); sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

## Subpart Z—Paperwork Reduction Act

### § 19.1010 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart displays the control numbers assigned to information collection requirements in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Department intends that this subpart comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget for each agency information collection requirement.

(b) *Display.*

| Section where identified | Current OMB control No. |
|---|---|
| 19.21 | 1512–0203 |
| 19.34 | 1512–0203 |
| 19.35 | 1512–0198 |
| | 1512–0203 |
| 19.36 | 1512–0203 |
| 19.37 | 1512–0203 |
| 19.38 | 1512–0203 |
| 19.41 | 1512–0141 |
| | 1512–0203 |
| 19.42 | 1512–0141 |
| | 1512–0203 |
| 19.43 | 1512–0141 |
| | 1512–0203 |
| 19.44 | 1512–0141 |
| | 1512–0203 |
| 19.45 | 1512–0203 |
| 19.46 | 1512–0203 |
| 19.62 | 1512–0206 |
| 19.66 | 1512–0206 |
| 19.67 | 1512–0206 |
| 19.68 | 1512–0462 |
| 19.71 | 1512–0206 |
| 19.72 | 1512–0206 |
| 19.73 | 1512–0206 |
| 19.75 | 1512–0206 |
| 19.91 | 1512–0206 |
| | 1512–0250 |
| 19.92 | 1512–0250 |
| 19.93 | 1512–0250 |
| 19.96 | 1512–0206 |
| 19.98 | 1512–0206 |
| 19.99 | 1512–0206 |

| Section where identified | Current OMB control No. |
|---|---|
| 19.133 | 1512–0206 |
| 19.134 | 1512–0206 |
| 19.151 | 1512–0206 |
| 19.152 | 1512–0206 |
| 19.153 | 1512–0206 |
| 19.154 | 1512–0206 |
| 19.155 | 1512–0206 |
| 19.157 | 1512–0195 |
| 19.158 | 1512–0195 |
| 19.159 | 1512–0195 |
| 19.162 | 1512–0195 |
| 19.165 | 1512–0195 |
| 19.166 | 1512–0206 |
| 19.167 | 1512–0206 |
| 19.168 | 1512–0206 |
| 19.170 | 1512–0206 |
| 19.180 | 1512–0206 |
| 19.182 | 1512–0206 |
| 19.183 | 1512–0195 |
| 19.184 | 1512–0206 |
| 19.185 | 1512–0206 |
| 19.186 | 1512–0206 |
| 19.187 | 1512–0206 |
| 19.189 | 1512–0206 |
| 19.190 | 1512–0206 |
| 19.191 | 1512–0206 |
| 19.192 | 1512–0206 |
| 19.193 | 1512–0206 |
| 19.201 | 1512–0202 |
| | 1512–0206 |
| 19.202 | 1512–0202 |
| | 1512–0206 |
| 19.203 | 1512–0202 |
| | 1512–0206 |
| 19.204 | 1512–0202 |
| | 1512–0206 |
| 19.205 | 1512–0202 |
| | 1512–0206 |
| 19.206 | 1512–0206 |
| 19.211 | 1512–0206 |
| 19.249 | 1512–0206 |
| 19.250 | 1512–0206 |
| 19.251 | 1512–0206 |
| 19.273 | 1512–0250 |
| 19.274 | 1512–0460 |
| 19.276 | 1512–0250 |
| 19.277 | 1512–0206 |
| 19.278 | 1512–0460 |
| 19.280 | 1512–0460 |
| 19.281 | 1512–0206 |
| 19.311 | 1512–0202 |
| 19.312 | 1512–0205 |
| 19.314 | 1512–0205 |
| 19.315 | 1512–0205 |
| 19.316 | 1512–0205 |
| 19.318 | 1512–0250 |
| 19.319 | 1512–0250 |
| 19.320 | 1512–0192 |
| | 1512–0250 |
| 19.321 | 1512–0250 |
| 19.322 | 1512–0250 |
| 19.324 | 1512–0204 |
| | 1512–0206 |
| 19.326 | 1512–0205 |
| 19.327 | 1512–0205 |
| | 1512–0461 |
| 19.329 | 1512–0250 |
| 19.342 | 1512–0192 |
| | 1512–0250 |
| 19.343 | 1512–0250 |
| 19.344 | 1512–0192 |
| | 1512–0250 |
| 19.345 | 1512–0461 |
| 19.347 | 1512–0192 |
| 19.349 | 1512–0192 |
| 19.353 | 1512–0250 |
| 19.372 | 1512–0198 |
| 19.373 | 1512–0198 |
| 19.382 | 1512–0206 |
| 19.383 | 1512–0198 |
| 19.384 | 1512–0198 |
| 19.385 | 1512–0461 |
| 19.386 | 1512–0198 |
| | 1512–0461 |
| 19.387 | 1512–0198 |
| 19.388 | 1512–0461 |
| 19.389 | 1512–0198 |
| 19.390 | 1512–0198 |
| | 1512–0250 |
| | 1512–0461 |
| 19.391 | 1512–0198 |
| 19.392 | 1512–0198 |
| 19.393 | 1512–0198 |
| 19.394 | 1512–0189 |
| | 1512–0461 |
| 19.395 | 1512–0461 |
| 19.396 | 1512–0461 |
| 19.397 | 1512–0189 |
| | 1512–0190 |
| | 1512–0199 |
| | 1512–0461 |
| 19.398 | 1512–0189 |
| | 1512–0461 |
| 19.400 | 1512–0198 |
| 19.401 | 1512–0250 |
| 19.402 | 1512–0206 |
| | 1512–0250 |
| 19.451 | 1512–0207 |
| 19.453 | 1512–0207 |
| 19.454 | 1512–0250 |
| 19.456 | 1512–0206 |
| 19.457 | 1512–0207 |
| 19.458 | 1512–0207 |
| 19.460 | 1512–0206 |
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[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18065, Apr. 30, 1990]

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

## Subpart A—Scope

Sec.
20.1 General.
20.2 Territorial extent.
20.3 Related regulations.

## Subpart B—Definitions

20.11 Meaning of terms.

## Subpart C—Administrative Provisions

AUTHORITIES

20.20 Delegations of the Administrator.
20.21 Forms prescribed.
20.22 Alternate methods or procedures; and emergency variations from requirements.
20.23 Approval of formulas and statements of process.
20.24 Allowance of claims.
20.25 Permits.
20.27 Right of entry and examination.
20.28 Detention of containers.

LIABILITY FOR TAX

20.31 Applicable laws and regulations; persons liable for tax.

MARKS AND BRANDS

20.33 Time of destruction of marks and brands.

DOCUMENT REQUIREMENTS

20.36 Execution under penalties of perjury.
20.37 Filing of qualifying documents.

## Subpart Ca—Special (Occupational) Taxes

20.38 Liability for special tax.
20.38a Special tax returns.
20.39 Employer identification number.

SPECIAL TAX STAMPS

20.40 Issuance, distribution, and examination of special tax stamps.
20.40a Changes in special tax stamps.

## Subpart D—Qualification of Dealers and Users

APPLICATION FOR PERMIT, FORM 5150.22

20.41 Application for industrial alcohol user permit.
20.42 Data for application, Form 5150.22.
20.43 Exceptions to application requirements.
20.44 Disapproval of application.
20.45 Organizational documents.

INDUSTRIAL ALCOHOL USER PERMIT, FORM 5150.9

20.48 Conditions of permits.
20.49 Duration of permits.
20.50 Correction of permits.
20.51 Suspension or revocation of permits.
20.52 Rules of practice in permit proceedings.
20.53 Powers of attorney.

20.54 Photocopying of permits.
20.55 Posting of permits.

CHANGES AFTER ORIGINAL QUALIFICATION

20.56 Changes affecting applications and permits.
20.57 Automatic termination of permits.
20.58 Adoption of documents by a fiduciary.
20.59 Continuing partnerships.
20.60 Change in name of permittee.
20.61 Change in trade name.
20.62 Change in location.
20.63 Adoption of formulas and statement of process.
20.64 Return of permits.

REGISTRY OF STILLS

20.66 Registry of stills.

PERMANENT DISCONTINUANCE OF BUSINESS

20.68 Notice of permanent discontinuance.

## Subpart E [Reserved]

## Subpart F—Formulas and Statements of Process

20.91 Formula.
20.92 Samples.
20.93 Changes to formulas.
20.94 Statement of process.
20.95 Developmental samples of articles.

APPROVAL POLICIES

20.100 General.
20.101 Drafting formulas.
20.102 Bay rum, alcoholado, or alcoholado-type toilet waters.
20.103 Articles made with S.D.A. Formula No. 39–C.
20.104 Residual alcohol in spirit vinegar.

GENERAL-USE FORMULAS

20.111 General.
20.112 Special industrial solvents general-use formula.
20.113 Proprietary solvents general-use formula.
20.114 Tobacco flavor general-use formula.
20.115 Ink general-use formula.
20.116 Low alcohol general-use formula.
20.117 Reagent alcohol general-use formula.
20.118 Rubbing alcohol general-use formula.
20.119 Toilet preparations containing not less than 10% essential oils general-use formula.

## Subpart G—Requirements Relating to Articles

20.131 Scope of subpart.
20.132 General requirements.
20.133 Registration of persons trafficking in articles.
20.134 Labeling.
20.135 State code numbers.
20.136 Labeling regulations of other agencies.
20.137 Penalties.

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

20.141 General.
20.142 Records of bulk conveyances.
20.143 Receipt.
20.144 Packages of completely denatured alcohol.
20.145 Encased containers.
20.146 Labels on bulk containers.
20.147 Labels on consumer-size containers.
20.148 Manufacture of articles with completely denatured alcohol.
20.149 Records.

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

OBTAINING SPECIALLY DENATURED SPIRITS

20.161 Withdrawals under permit.
20.162 Regulation of withdrawals.
20.163 Receipt and storage of specially denatured spirits.

PREMISES AND EQUIPMENT

20.164 Premises.
20.165 Storage facilities.
20.166 Stills and other equipment.
20.167 Recovered and restored denatured spirits tanks.

INVENTORY AND RECORDS

20.170 Physical inventory.
20.171 Record of shipment.
20.172 Records.

OPERATIONS BY DEALERS

20.175 Shipment for account of another dealer.
20.176 Packaging by a dealer.
20.177 Encased containers.
20.178 Marks and brands on containers of specially denatured spirits.
20.179 Package identification number or serial number.
20.180 Record of packages filled.
20.181 Limitations on shipments.
20.182 Bulk shipments.

OPERATIONS BY USERS

20.189 Use of specially denatured spirits.
20.190 Diversion of articles for internal human use or beverage use.
20.191 Bulk articles.
20.192 Manufacturing record.

## Subpart J—Losses

20.201 Liability and responsibility of carrier.
20.202 Losses in transit.
20.203 Losses on premises.

20.204 Incomplete shipments.
20.205 Claims.

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

20.211 General.
20.212 Deposit in receiving tanks.
20.213 Reuse of recovered spirits.
20.214 Shipment for restoration or redenaturation.
20.215 Shipment of articles and spirits residues for redistillation.
20.216 Record of shipment.

### Subpart L—Destruction

20.221 General.
20.222 Destruction.

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

20.231 Return.
20.232 Reconsignment in transit.
20.233 Disposition after revocation of permit.
20.234 Disposition on permanent discontinuance of use.
20.235 Disposition to another user.

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

20.241 General.
20.242 Application and permit, Form 5150.33.
20.243 Procurement of specially denatured spirits.
20.244 Receipt of shipment.
20.245 Discontinuance of use.
20.246 Disposition of specially denatured spirits on discontinuance of use.

### Subpart O—Samples of Specially Denatured Spirits

20.251 General.
20.252 Samples larger than five gallons.
20.253 Labels for samples.

### Subpart P—Records and Reports

20.261 Records of completely denatured alcohol.
20.262 Dealer's records of specially denatured spirits.
20.263 User's records of specially denatured spirits.
20.264 User's records and report of products and processes.
20.265 Retention of invoices.
20.266 Time for making entries in records.
20.267 Filing and retaining records.
20.268 Photographic copies of records.

AUTHORITY: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

SOURCE: T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 20 appear by T.D. ATF–235, 66 FR 5473–5475, Jan. 19, 2001 and T.D. ATF–463 and T.D. ATF–462, 66 FR 42733, 42736, Aug. 15, 2001.

## 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.

(a) 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.

(b) For the purposes of this part, operations in a foreign-trade zone located in any State of the United States or the District of Columbia are regulated in the same manner as operations in any other part of such State or the District of Columbia, with the exception that under this part only domestic denatured spirits may be used in the manufacture of articles in a foreign-trade zone.

(48 Stat. 999, as amended (19 U.S.C. 81c))

[T.D. ATF–274, 53 FR 25156, July 5, 1988]

### § 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 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 27—Importation of Distilled Spirits, Wines and Beer.
27 CFR Part 29—Stills and Miscellaneous Regulations.

27 CFR Part 71—Rules of Practice in Permit Proceedings.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–207, 50 FR 23682, June 5, 1985; T.D. ATF–459, 66 FR 38549, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002; T.D. ATF–923, 67 FR 17938, Apr. 12, 2002]

## 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.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*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.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.20, Delegation of the Administrator's Authorities in 27 CFR Part 20, Distribution and Use of Denatured Alcohol and Rum.

*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.

*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 appropriate TTB officer 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 required to hold a permit to deal in specially denatured spirits for resale to persons authorized to purchase or receive specially denatured spirits in accordance with this part. The term does not include a person who only buys and sells specially denatured spirits which that person never physically receives or intends to receive.

*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.

*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 or 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.

*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 semitrailer, 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.

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

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by ATF–332, 57 FR 40849, Sept. 8, 1992; T.D. ATF–435, 66 FR 5473, Jan. 19, 2001; T.D. TTB–44, 71 FR 16934, Apr. 4, 2006]

## Subpart C—Administrative Provisions

AUTHORITIES

### § 20.20 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.20, Delegation of the Administrator's Authorities in 27 CFR Part 20, Distribution and use of Denatured Alcohol and Rum. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16934, Apr. 4, 2006]

### § 20.21 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including 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. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–249, 52 FR 5961, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF–435, 66 FR 5474, Jan. 19, 2001; T.D. ATF–476, 67 FR 17938, Apr. 12, 2002; T.D. TTB–44, 71 FR 16934, Apr. 4, 2006]

### § 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 appropriate TTB officer, 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 appropriate TTB officer. The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by appropriate TTB officer.* The appropriate TTB officer 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) *Conditions of approval.* A permittee may not employ an alternate method or procedure until the appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer.* The appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer may withdraw approval for an alternate method or procedure, may withdraw approval for an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the appropriate TTB officer 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))

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–235, 66 FR 5474, Jan. 19, 2001; T.D. ATF–476, 67 FR 17938, Apr. 12, 2002]

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

The appropriate TTB officer 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 appropriate TTB officer is authorized to allow claims for losses of specially denatured alcohol or specially denatured rum.

### § 20.25 Permits.

The appropriate TTB officer must issue permits for the United States or a Governmental agency as provided in § 20.241 and industrial alcohol user permits, Form 5150.9, required under this part.

[T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

### § 20.27 Right of entry and examination.

An appropriate TTB 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 appropriate TTB 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 appropriate TTB officer may detain any container containing, or supposed to contain, spirits (including denatured spirits and articles), when the appropriate TTB officer believes those spirits, denatured spirits, or articles were produced, withdrawn, sold, transported, or used in violation of law or this part. The appropriate TTB 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 appropriate TTB officer. 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.

(26 U.S.C. 6065)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–332, 57 FR 40849, Sept. 8, 1992]

### § 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 appropriate TTB officer during business hours.

## Subpart Ca—Special (Occupational) Taxes

SOURCE: T.D. ATF–271, 53 FR 17544, May 17, 1988, unless otherwise noted.

### § 20.38 Liability for special tax.

(a) *Industrial alcohol permittee.* Except as otherwise provided in this section, every person required to hold a permit under 26 U.S.C. 5271 to procure, use, sell, and/or recover denatured distilled spirits for industrial purposes shall pay a special (occupational) tax at the rate of $250 per year. A separate tax shall be paid for each industrial alcohol permit which the permittee holds, and permits issued under this part shall not be valid unless special tax is paid. The tax shall be paid on or before the date of commencing business as an industrial alcohol permittee, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a permittee engaged in denatured distilled spirits operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* Special (occupational) tax liability is incurred at each place of business for which a permit under subpart D of this part to procure, use, sell, and/or recover denatured distilled spirits has been issued. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(d) *Exception for United States.* Agencies and instrumentalities of the United States are not required to pay special tax under this subpart.

(e) *Exemption for certain educational institutions (effective July 1, 1989).* (1) On and after July 1, 1989, a scientific university, college of learning, or institution of scientific research, which holds a permit to procure and use specially denatured spirits under this part, is exempt from payment of special tax under this subpart if—

(i) The university, college, or institution procures less than 25 gallons of specially denatured spirits per calendar year; and

(ii) Such spirits are procured for use exclusively for experimental or research use and not for consumption (other than organoleptic tests) or sale.

(2) A scientific university, college of learning, or institution of scientific research, which holds a permit under this part, and which does not operate as described in paragraphs (e)(1)(i) and (ii) of this section during any calendar year, shall pay special tax as provided in § 20.38(a) for the special tax year (July 1 through June 30) commencing during that calendar year.

(26 U.S.C. 5143, 5276)

[T.D. ATF–271, 53 FR 17544, May 17, 1988, as amended by T.D. ATF–285, 54 FR 12610, Mar. 28, 1989]

### § 20.38a Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) *Preparation of TTB Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 20.39).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10 percent of more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with TTB is accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 20.267.

(d) *Signing of TTB Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as ''individual owner,'' ''member of firm,'' or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

## § 20.39 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer indentification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

### SPECIAL TAX STAMPS

## § 20.40 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 20.38a(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5143, 5146, 6806)

### § 20.40a Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the permittee shall file an amended special tax return, as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The permittee shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of an industrial alcohol operation, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on TTB Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with TTB an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

## 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 on 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 appropriate TTB officer. 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.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity, the appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB officer 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, where the appropriate TTB officer has determined that the waiver of such requirements does not pose any jeopardy to the revenue or a hindrance of the effective administration of this part.

(b) The waiver provided for in this section will terminate for a permittee, other than States or political subdivisions thereof or the District of Columbia, when the appropriate TTB officer determines that the conditions justifying the waiver no longer exist. In this case, the permittee will furnish the information in respect to the previously waived items, as provided in § 20.56(a)(2).

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17938, Apr. 12, 2002]

### § 20.44 Disapproval of application.

The appropriate TTB officer may, in accordance with part 71 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 appropriate TTB officer 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 must be submitted to the appropriate TTB officer 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.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

INDUSTRIAL ALCOHOL USER PERMIT, FORM 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 appropriate TTB officer, prior to the issuance of a permit by the appropriate TTB officer.

(c) A permittee shall not use specially denatured spirits in the manufacture or production of any article unless the appropriate TTB officer 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 on a permit is discovered, the permittee shall immediately return the permit to the appropriate TTB officer for correction.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 20.51 Suspension or revocation of permits.

The appropriate TTB officer may institute proceedings under part 71 of this chapter to suspend or revoke a permit whenever the appropriate TTB officer 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 71 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 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer) 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 appropriate TTB officer 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.* 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 appropriate TTB officer. Within 30 days of the change, the permittee 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 appropriate TTB officer.

(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)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 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.

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 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) *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 § 20.57(c).

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

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985; T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 20.60 Change in name of permittee.

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 appropriate TTB officer.

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

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer.

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

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 20.62 Change in location.

When there is to be a change in location, 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 appropriate TTB officer.

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

T.D. ATF–199, 50 FR 9162, Mar. 8, 1985, as amended by T.D. ATF– 435, 66 FR 5474, Jan. 19, 2001; T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

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

(a) The adoption by a successor (proprietorship or fiduciary) of a predecessor's formulas and statements of process as provided in § 20.57(c), and § 20.58, will be in the form of a certificate submitted to the appropriate TTB officer.

(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 TTB 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)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by ATF–332, 57 FR 40849, Sept. 8, 1992]

### § 20.64 Return of permits.

Following the issuance of a new or amended permit, the permittee shall (a) obtain and destroy all photocopies of the previous permit from its suppliers, and (b) return the original of the previous permit to the appropriate TTB officer.

## REGISTRY OF STILLS

### § 20.66 Registry of stills.

The provisions of subpart C of part 29 of this chapter are applicable to stills or distilling apparatus located on the premises of a permittee used for distilling. As provided under § 29.55, the listing of a still in the permit application (Form 5150.22), and approval of the application, constitutes registration of the still.

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

[T.D. ATF–207, 50 FR 23682, June 5, 1985]

## 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 appropriate TTB officer 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 of all specially denatured spirits, as required in § 20.234, and

(3) The date of discontinuance.

(b) *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)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

## Subpart E [Reserved]

## 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 appropriate TTB officer as an alternate method, or published as a TTB ruling in the TTB 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer may require the manufacturer to submit a 4-ounce sample of the finished article.

(c) The appropriate TTB officer may, at any time, require submission of samples of:

(1) Any ingredient used in the manufacture of an article, or;

(2) Any article.

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

### § 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 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)

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

## APPROVAL POLICIES

### § 20.100 General.

(a) In addiition to the limitations in this part, and if necessary to protect the revenue or public safety, the appropriate TTB officer, 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 appropriate TTB officer of formulas, samples, or statements of process means only that they meet the standards of the Alcohol and Tobacco Tax and Trade Bureau. The approval does not require the issuance of a permit under subpart D of this part to withdraw and use specially denatured spirits in those formulas, articles, or statements of process.

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

### § 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 appropriate TTB officer.

### § 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 through 20.119, approved by the appropriate TTB officer as an alternate method, or published as a TTB ruling in the TTB Bulletin.

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

(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 non-poisonous.''

### § 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 appropriate TTB officers to inspect the applicant's premises; and

(v) A statement that the applicant will comply with the requirements of § 20.133.

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

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5474, Jan. 19, 2001]

### § 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. |

(If desired, ordorous, 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 not less than 10% essential oils general-use formula.

This general-use formula shall consist of an article containing not less than 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. |

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

## 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 appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB officer 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. However, in lieu of such permit number or numbers, the place or places where the manufacturing operation occurred may be indicated by a coding

system. Prior to using a coding system, the manufacturer shall send a notice explaining the coding system to the appropriate TTB officer, 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 appropriate TTB officer 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.

(f) *Distributor labeling.* Distributors of an article may place minimal identifying information (name, address and a phrase such as ''distributed by'') on the label of that article (or on an additional label) without qualifying in any manner under this part; provided:

(1) The article is produced, packaged and labeled as provided in this part; and

(2) The distributor does not produce, repackage or reprocess the article.

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

[T.D ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by ATF–332, 57 FR 40849, Sept. 8, 1992]

### § 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—DC
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
50—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 labeling 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

### § 20.141 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 appropriate TTB officer. 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 appropriate TTB officer'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. If the permittee is located in a foreign-trade zone, the permit will be qualified so that the permittee may obtain domestic specially denatured spirits only. The alcohol in domestic denatured spirits must be produced entirely in the United States, including Puerto Rico.

(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 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 appropriate TTB officer authorizes the shipment.

(19 U.S.C. 81c; Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended, 1395, as amended (26 U.S.C. 5271, 5555))

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF–274, 53 FR 25156, July 5, 1988]

### § 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 authorized 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 formula 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB 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 appropriate TTB 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 dealer who ordered the shipment shall be liable for the tax while the specially denatured spirits are in transit and 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))

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002; 67 FR 20868, Apr. 26, 2002]

### § 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 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))

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 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 information:

(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 appropriate TTB officer, 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 appropriate TTB officer.

(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 Alcohol and Tobacco Tax and Trade Bureau. 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 in accordance with subpart F of this part.

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001]

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

An appropriate TTB officer 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 appropriate TTB officer may require the permittee to discontinue the use of the formula until it has been modified and again approved.

[T.D. ATF– 435, 66 FR 5475, Jan. 19, 2001]

## § 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 TTB Publication 5150.5 and are available as provided in § 20.21(b).

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–249, 52 FR 5961, Feb. 27, 1987]

### § 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 appropriate TTB officer 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 appropriate TTB officer 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), 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 appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB officer 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 appropriate TTB officer may require supervision of the redenaturation of the recovered spirits by an appropriate TTB 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 specially 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 specially denatured spirits or recovered alcohol are destroyed in accordance with this subpart.

### § 20.222 Destruction.

(a) A permittee who destroys specially 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 Specially Denatured Spirits

### § 20.231 Return.

A permittee may, following the receipt of specially denatured spirits and for any legitimate reason, return the specially 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.* Specially 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) *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)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended at T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 20.233 Disposition after revocation of permit.

When any permit issued on Form 5150.9 is revoked, all specially denatured spirits in transit and all specially 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 specially 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 appropriate TTB officer, 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 packages to be shipped shall bear the name and permit number of the user and the marks and labels required under § 20.178. The user's copy of the record of shipment shall include an explanation of the reason for the disposition.

(c) The appropriate TTB officer 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)

[T.D ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by ATF–332, 57 FR 40849, Sept. 8, 1992]

## 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 as provided in § 20.25. Payment of special (occupational) tax is not required for any Governmental agency of the United States to procure specially denatured spirits.

(26 U.S.C. 5214, 5271, 5272, 5276)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF–285, 54 FR 12610, Mar. 28, 1989; T.D. ATF–435, 66 FR 5475, Jan. 19, 2001; T.D. ATF–476, 67 FR 17939, Apr. 12, 2002]

### § 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. 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer. 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 as required by § 20.92. 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 nonpermittee 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)

[T.D. ATF–199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001]

### § 20.252 Samples larger than five gallons.

(a) *General.* The appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB 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 appropriate TTB 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 appropriate TTB officer.

(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 appropriate TTB 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 appropriate TTB officer.

(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 appropriate TTB 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 appropriate TTB officer 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 TTB officers, all those records of operations, all supporting or supplemental records, and copies of all reports as required by this part. However, the appropriate TTB officer 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 TTB officers during regular business hours for examination.

[T.D. ATF– 199, 50 FR 1962, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001]

### § 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

## Subpart A—General Provisions

Sec.
21.1 Scope of regulations.
21.2 Forms prescribed.
21.3 Stocks of discontinued formulas.
21.4 Related regulations.
21.5 Denatured spirits for export.
21.6 Incorporations by reference.
21.7 Delegations of the Administrator.

## Subpart B—Definitions

21.11 Meaning of terms.

## Subpart C—Completely Denatured Alcohol Formulas

21.21 General.
21.22 Formula No. 18.

21.23 Formula No. 19.
21.24 Formula No. 20.

## Subpart D—Specially Denatured Spirits Formulas and Authorized Uses

21.31 General.
21.32 Formula No. 1.
21.33 Formula No. 2–B.
21.34 Formula No. 2–C.
21.35 Formula No. 3–A.
21.36 Formula No. 3–B.
21.37 Formula No. 3–C.
21.38 Formula No. 4.
21.39 Formula No. 6–B.
21.40 Formula No. 12–A.
21.41 Formula No. 13–A.
21.42 Formula No. 17.
21.43 Formula No. 18.
21.44 Formula No. 19.
21.45 Formula No. 20.
21.46 Formula No. 22.
21.47 Formula No. 23–A.
21.48 Formula No. 23–F.
21.49 Formula No. 23–H.
21.50 Formula No. 25.
21.51 Formula No. 25–A.
21.52 Formula No. 27.
21.53 Formula No. 27–A.
21.54 Formula No. 27–B.
21.55 Formula No. 28–A.
21.56 Formula No. 29.
21.57 Formula No. 30.
21.58 Formula No. 31–A.
21.59 Formula No. 32.
21.60 Formula No. 33.
21.61 Formula No. 35.
21.62 Formula No. 35–A.
21.63 Formula No. 36.
21.64 Formula No. 37.
21.65 Formula No. 38–B.
21.66 Formula No. 38–C.
21.67 Formula No. 38–D.
21.68 Formula No. 38–F.
21.69 Formula No. 39.
21.70 Formula No. 39–A.
21.71 Formula No. 39–B.
21.72 Formula No. 39–C.
21.73 Formula No. 39–D.
21.74 Formula No. 40.
21.75 Formula No. 40–A.
21.76 Formula No. 40–B.
21.77 Formula No. 40–C.
21.78 Formula No. 42.
21.79 Formula No. 44.
21.80 Formula No. 45.
21.81 Formula No. 46.

## Subpart E—Specifications for Denaturants

21.91 General.
21.92 Denaturants listed as U.S.P. or N.F.
21.93 Acetaldehyde.
21.94 Acetaldol.
21.95 Alpha terpineol.
21.96 Ammonia, aqueous.
21.97 Benzene.
21.98 Bone oil (Dipple's oil).
21.99 Brucine alkaloid.
21.100 *n*-Butyl alcohol.
21.101 *tert*-Butyl alcohol.
21.102 Caustic soda, liquid.
21.103 Chloroform.
21.104 Cinchonidine.
21.105 Citronella oil, natural.
21.106 Diethyl phthalate.
21.107 Ethyl acetate.
21.108 Ethyl ether.
21.109 Gasoline.
21.110 Gasoline, unleaded.
21.111 Gentian violet.
21.112 Heptane.
21.113 Isopropyl alcohol.
21.114 Kerosene.
21.115 Kerosene (deodorized).
21.116 Methyl alcohol.
21.117 Methyl isobutyl ketone.
21.118 Methyl *n*-butyl ketone.
21.119 Nicotine solution.
21.120 Nitropropane, mixed isomers of.
21.121 Phenyl mercuric benzoate.
21.122 Pyridine bases.
21.123 Pyronate.
21.124 Quassin.
21.125 Rubber hydrocarbon solvent.
21.126 Safrole.
21.127 Shellac (refined).
21.128 Sodium (metallic).
21.129 Spearmint oil, terpeneless.
21.130 Spike lavender oil, natural.
21.131 Sucrose octaacetate.
21.132 Toluene.
21.133 Vinegar.

## Subpart F—Uses of Specially Denatured Alcohol and Specially Denatured Rum

21.141 List of products and processes using specially denatured alcohol and rum, and formulas authorized therefor.

## Subpart G—Denaturants Authorized for Denatured Spirits

21.151 List of denaturants authorized for denatured spirits.

## Subpart H—Weights and Specific Gravities of Specially Denatured Alcohol

21.161 Weights and specific gravities of specially denatured alcohol.

AUTHORITY: 5 U.S.C. 552(a); 26 U.S.C. 5242, 7805.

SOURCE: T.D. ATF–133, 48 FR 24673, June 2, 1983, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 21 appear by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001.

## Subpart A—General Provisions

### § 21.1 Scope of regulations.

The regulations in this part relate to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the specifications for denaturants; and to the uses of denatured spirits.

### § 21.2 Forms prescribed.

(a) *General.* The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–249, 52 FR 5961, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF–435, 66 FR 5475, Jan. 19, 2001; T.D. TTB–44, 71 FR 16934, Apr. 4, 2006]

### § 21.3 Stocks of discontinued formulas.

Denaturers, or specially denatured spirits dealers or users, having on hand stocks of denaturants or formulas of specially denatured spirits no longer authorized by this part may—

(a) Continue to supply or use those stocks in accordance with existing permits until the stocks are exhausted;

(b) Use up those stocks in any manufacturing process approved by the appropriate TTB officer, pursuant to an application filed with him on TTB Form 5150.19, Formula for Articles made with Specially Denatured Alcohol and Rum;

(c) On approval of an application, filed with the appropriate TTB officer and approved by such officer, destroy those stocks under whatever supervision the appropriate TTB officer requires; or

(d) Otherwise dispose of those stocks in a manner satisfactory to the appropriate TTB officer, pursuant to approval of an application.

[T.D. ATF–133, 487 FR 24673, June 2, 1983, as amended by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001]

### § 21.4 Related regulations.

The procedural and substantive requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in Part 19 of this chapter, and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in Part 20 of this chapter.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183 Mar. 6, 1985]

### § 21.5 Denatured spirits for export.

Spirits may be denatured in accordance with formulas prescribed by the government of a foreign country to which the denatured spirits will be exported. However, the denaturer must first apply for and obtain written permission from the appropriate TTB officer. The application shall be submitted to the appropriate TTB officer and shall contain the following information:

(a) A complete list of ingredients for the spirits to be denatured.

(b) The exact amount of each ingredient to be used in denaturing the spirits.

(c) A copy (accompanied by an English translation as necessary) of the law or regulations of the foreign country to which the denatured spirits will be exported, specifying the denatured spirits formulation prescribed by that country.

### § 21.6 Incorporations by reference.

(a) ''The United States Pharmacopoeia (Twentieth Revision, Official from July, 1980) and the National Formulary (Fifteenth Edition, Official from July 1, 1980)'' published together as ''The USP and NF Compendia,'' are incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register. The publication is available from the United States Pharmacopoeia Convention, Inc., 12601 Twinbrook

Parkway, Rockville, Maryland 20852, or may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Material from Parts 23, 25, and 29 of the 1980 Annual Book of ASTM Standards is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register. These publications are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, or may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) Material from the ''Official Methods of Analysis of the Association of Official Analytical Chemists (13th Edition 1980)'' (AOAC) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register. This publication is available from the Association of Official Analytical Chemists, 11 North 19th Street, Suite 210, Arlington, Virginia 22209, or may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended at 69 FR 18803, Apr. 9, 2004]

(Pub. L. 89–554, 80 Stat. 383 as amended (5 U.S.C. 552(a)))

### §21.7 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.21, Delegation of the Administrator's Authorities in 27 CFR Part 21, Formulas for Denatured Alcohol and Rum. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16936, Apr. 4, 2006]

## Subpart B—Definitions

### §21.11 Meaning of terms.

When used in this part and in forms prescribed under this part, unless the context otherwise requires, terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms ''includes'' and ''including'' do not exclude things not mentioned which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Alcohol.* The 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.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.21, Delegation of the Administrator's Authorities in 27 CFR Part 21, Formulas For Denatured Alcohol and Rum.

*CFR.* The Code of Federal Regulations.

*C.D.A.* Completly denatured alcohol.

*Completely denatured alcohol.* The spirits known as alcohol, as defined in this section, denatured pursuant to completely denatured alcohol formulas prescribed in subpart C of this part.

*Denaturant.* A material authorized by this part to be added to spirits in order to make those spirits unfit for beverage or internal human medicinal use.

*Denatured spirits.* Alcohol or rum to which denaturants have been added as provided in this part.

*Essential oil.* Any of the volatile odoriferous natural oils found in plants, which impart to such plants odor, and often other characteristic properties; also, imitations of such natural oils, as well as aromatic substances, and synthetic oils, which possess the denaturing characteristics of such natural oils.

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

*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.

*N.F.* The National Formulary. The lastest edition is intended unless otherwise specified. The designations ''U.S.P.'' and ''N.F.'' are considered interchangeable when preparations are transferred from one publication to the other. (For incorporation by reference, see § 21.6(a).)

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

*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.

*S.D.A.* Specially denatured alcohol.

*Specially denatured alcohol.* Those spirits known as alcohol, as defined in this section, denatured pursuant to the specially denatured alcohol formulas authorized under subpart D of this part.

*Specially denatured rum.* Those spirits known as rum, as defined in this section, denatured pursuant to the specially denatured rum formula authorized under subpart D of this part.

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

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

*U.S.P.* The United States Pharmacopoeia. The latest edition is intended unless otherwise specified. The designations ''U.S.P.'' and ''N.F.'' are considered interchangeable when preparations are transferred from one publication to the other. (For incorporation by reference, see § 21.6(a).)

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; T.D. ATF–435, 66 FR 5475, Jan. 19, 2001; T.D. TTB–44, 71 FR 16936, Apr. 4, 2006]

## Subpart C—Completely Denatured Alcohol Formulas

### § 21.21 General.

(a) Alcohol shall be completely denatured only in accordance with formulas prescribed in this subpart (or in accordance with § 21.5).

(b) Denaturers may be authorized to add a small quantity of an odorant, rust inhibitor, or dye to completely denatured alcohol. Any such addition shall be made only on approval by the appropriate TTB officer. Request for such approval shall be submitted to the appropriate TTB officer.

(c) Odorants or perfume materials may be added to denaturants authorized for completely denatured alcohol in amounts not greater than 1 part to 250, by weight. However, such addition shall not decrease the denaturing value nor change the chemical or physical constants beyond the limits of the specifications for these denaturants as prescribed in subpart E, except as to odor. Proprietors of distilled spirits plants using denaturants to which such odorants or perfume materials have been added shall inform the appropriate TTB officer, in writing, of the names and properties of the odorants or perfume materials so used.

### § 21.22 Formula No. 18.

To every 100 gallons of ethyl alcohol of not less than 160 proof add:

2.50 gallons of either methyl isobutyl ketone, mixed isomers of nitropropane, or methyl *n*- butyl ketone;

0.125 gallon of pyronate or a similar compound;

0.50 gallon acetaldol (beta-hydroxybutyraldehyde); and

1.00 gallon of either kerosene, deodorized kerosene, gasoline, unleaded gasoline, rubber hydrocarbon solvent, or heptane.

### § 21.23 Formula No. 19.

To every 100 gallons of ethyl alcohol of not less than 160 proof add:

4.0 gallons of either methyl isobutyl ketone, mixed isomers of nitropropane, or methyl *n*- butyl ketone; and

1.0 gallon of either kerosene, deodorized kerosene, gasoline, unleaded gasoline, rubber hydrocarbon solvent, or heptane.

### §21.24 Formula No. 20.

(a) *Formula.* To every 100 gallons of ethyl alcohol of not less than 195 proof add:

A total of 2.0 gallons of either unleaded gasoline, rubber hydrocarbon solvent, kerosene, or deodorized kerosene; or any combination of these.

(b) *Authorized use.* Restricted to fuel use, comparable to specially denatured alcohol ''Use Code No.'' 611, 612, 613, 620, and 630.

## Subpart D—Specially Denatured Spirits Formulas and Authorized Uses

### §21.31 General.

(a) *Formulas for specially denatured spirits.* Alcohol and rum shall be specially denatured only in accordance with formulas prescribed in this subpart (or in accordance with §21.5).

(b) *Proof of spirits for denaturation.* Alcohol of not less than 185 proof shall be used in the manufacture of all formulas of specially denatured alcohol, unless otherwise specifically stated or unless otherwise authorized by the appropriate TTB officer. Rum for denaturation shall be of not less than 150 proof and may be denatured only in accordance with Formula No. 4.

(c) *Use of Denatured Spirits.* Users and manufacturers holding approved Forms 5150.19 (formerly 1479–A) covering use in processes or manufacture of products no longer authorized for a particular formula may continue that use. Pursuant to written application and subject to the provisions of 26 U.S.C. Chapter 51, Part 20 of this chapter, and this part, the appropriate TTB officer, may authorize the use of any formula of specially denatured alcohol or specially denatured rum for uses not specifically authorized in this part. The code number before each item under ''authorized uses'' shall be used in reporting the use of specially denatured alcohol or specially denatured rum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985]

### §21.32 Formula No. 1.

(a) *Formula.* To every 100 gallons of alcohol add:

Four gallons of methyl alcohol and either ⅛ avoirdupois ounce of denatonium benzoate, N.F.; 1 gallon of methyl isobutyl ketone; 1 gallon of mixed isomers of nitropropane; or 1 gallon of methyl *n*- butyl ketone.

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.
013. Shellac coatings.
014. Other natural resin coatings.
016. Other coatings.
021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
032. Transparent sheeting.
033. Explosives.
034. Cellulose intermediates and industrial collodions.
035. Soldering flux.
036. Adhesives and binders.
041. Proprietary solvents.
042. Solvents and thinners (other than proprietary solvents or special industrial solvents).
043. Solvents, special (restricted sale).
051. Polishes.
052. Inks (not including meat branding inks).
053. Stains (wood, etc.).
141. Shampoos.
142. Soap and bath preparations.
311. Cellulose compounds (dehydration).
312. Sodium hydrosulfite (dehydration).
315. Other dehydration products.
320. Petroleum products.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
351. Processing dyes and intermediates.
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
354. Processing rosin.
355. Processing rubber (latex).
358. Processing other chemicals.
359. Processing miscellaneous products.

410. Disinfectants, insecticides, fungicides, and other biocides.
420. Embalming fluids and related products.
430. Sterilizing and preserving solutions.
440. Industrial detergents and soaps.
450. Cleaning solutions (including household detergents).
481. Photoengraving and rotogravure dyes and solutions.
482. Other dye solutions.
485. Miscellaneous solutions (including duplicating fluids).

(2) As a raw material:

521. Ethyl acetate.
522. Ethyl chloride.
523. Other ethyl esters.
530. Ethylamines.
540. Dyes and intermediates.
551. Acetaldehyde.
552. Other aldehydes.
561. Ethyl ether.
562. Other ethers.
571. Ethylene dibromide.
572. Ethylene gas.
573. Xanthates.
574. Fulminate of mercury and other detonators.
575. Drugs and medicinal chemicals.
579. Other chemicals.

(3) As a fuel:

611. Automobile and supplementary fuels.
612. Airplane and supplementary fuels.
613. Rocket and jet fuels.
620. Proprietary heating fuels.
630. Other fuel uses.

(4) As a fluid:

710. Scientific instruments.
720. Brake fluids.
730. Cutting oil.
740. Refrigerating uses.
750. Other fluid uses.
760. Proprietary anti-freeze.

(5) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).
900. Specialized uses (unclassified).

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

## § 21.33 Formula No. 2–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One-half gallon of benzene, ½ gallon of rubber hydrocarbon solvent, ½ gallon of toluene, or ½ gallon of heptane.

(b) *Authorized uses.* (1) As a solvent:

021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
032. Transparent sheeting.
033. Explosives.
311. Cellulose compounds (dehydration).
312. Sodium hydrosulfite (dehydration).
315. Other dehydration products.
320. Petroleum products.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
349. Miscellaneous drug processing (including manufacture of pills).
351. Processing dyes and intermediates.
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
358. Processing other chemicals.
359. Processing miscellaneous products.

(2) As a raw material:

521. Ethyl acetate.
522. Ethyl chloride.
523. Other ethyl esters.
524. Sodium ethylate, anhydrous.
530. Ethylamines.
540. Dyes and intermediates.
551. Acetaldehyde.
552. Other aldehydes.
561. Ethyl ether.
562. Other ethers.
571. Ethylene dibromide.
572. Ethylene gas.
573. Xanthates.
575. Drugs and medicinal chemicals.
576. Organo-silicone products.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* This formula shall be used in a closed and continuous system unless otherwise authorized by the appropriate TTB officer.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

## § 21.34 Formula No. 2–C.

(a) *Formula.* To every 100 gallons of alcohol add:

Thirty-three pounds or more of metallic sodium and either ½ gallon of benzene, ½ gallon of toluene, or ½ gallon of rubber hydrocarbon solvent.

(b) *Authorized uses.* (1) As a solvent:

344. Processing medicinal chemicals (including alkaloids).
358. Processing other chemicals.
359. Processing miscellaneous products.

(2) As a raw material:

523. Miscellaneous ethyl esters.
530. Ethylamines.
540. Dyes and intermediates.
575. Drugs and medicinal chemicals.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* This formula shall be used in a closed and continuous system unless otherwise authorized by the appropriate TTB officer.

### §21.35 Formula No. 3–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Five gallons of methyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.
016. Other coatings.
021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
032. Transparent sheeting.
033. Explosives.
034. Cellulose intermediates and industrial collodions.
035. Soldering flux.
036. Adhesives and binders.
041. Proprietary solvents.
043. Solvents, special (restricted sale).
051. Polishes.
052. Inks (including meat branding inks).
053. Stains (wood, etc.).
141. Shampoos.
142. Soap and bath preparations.
311. Cellulose compounds (dehydration).
312. Sodium hydrosulfite (dehydration).
315. Other dehydration products.
320. Petroleum products.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
351. Processing dyes and intermediates.
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
354. Processing rosin.
355. Processing rubber (latex).
358. Processing other chemicals.
359. Processing miscellaneous products.
410. Disinfectants, insecticides, fungicides, and other biocides.
420. Embalming fluids and related products.
430. Sterilizing and preserving solutions.
440. Industrial detergents and soaps.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
481. Photoengraving and rotogravure dyes and solutions.
482. Other dye solutions.
485. Miscellaneous solutions (including duplicating fluids).

(2) As a raw material:

530. Ethylamines.
540. Dyes and intermediates.
575. Drugs and medicinal chemicals.
576. Organo-silicone products.
579. Other chemicals.
590. Synthetic resins.

(3) As a fuel:

611. Automobile and supplementary fuels.
612. Airplane and supplementary fuels.
613. Rocket and jet fuels.
620. Proprietary heating fuels.
630. Other fuel uses.

(4) As a fluid:

710. Scientific instruments.
720. Brake fluids.
730. Cutting oils.
740. Refrigerating uses.
750. Other fluid uses.

(5) Miscellaneous uses:

810. General laboratory and experimental use (own use only).
811. Laboratory reagents for sale.
812. Product development and pilot plant uses (own use only).
900. Specialized uses (unclassified).

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985]

### §21.36 Formula No. 3–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of pine tar, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
141. Shampoos.
142. Soap and bath preparations.
410. Disinfectants, insecticides, fungicides, and other biocides.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.37 Formula No. 3–C.

(a) *Formula.* To every 100 gallons of alcohol add:

Five gallons of isopropyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.
016. Other coatings.
021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
032. Transparent sheeting.
033. Explosives.
034. Cellulose intermediates and industrial collodions.
035. Soldering flux.
036. Adhesives and binders.
043. Solvents, special (restricted sale).
051. Polishes.
052. Inks (including meat branding inks).
053. Stains (wood, etc.).
141. Shampoos.
142. Soaps and bath preparations.
311. Cellulose compounds (dehydration).
312. Sodium hydrosulfite (dehydration).
315. Other dehydration products.
320. Petroleum products.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
351. Processing dyes and intermediates.
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
354. Processing rosin.
355. Processing rubber (latex).
358. Processing other chemicals.
359. Processing miscellaneous products.
410. Disinfectants, insecticides, fungicides, and other biocides.
420. Embalming fluids and related products.
430. Sterilizing and preserving solutions.
440. Industrial detergents and soaps.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
481. Photoengraving and rotogravure dyes and solutions.
482. Other dye solutions.
485. Miscellaneous solutions (including duplicating fluids).

(2) As a raw material:

530. Ethylamines.
540. Dyes and intermediates.
575. Drugs and medicinal chemicals.
576. Organo-silicone products.
579. Other chemicals.
590. Synthetic resins.

(3) As a fuel:

611. Automobile and supplementary fuels.
612. Airplane and supplementary fuels.
613. Rocket and jet fuels.
620. Proprietary heating fuels.
630. Other fuel uses.

(4) As a fluid:

710. Scientific instruments.
720. Brake fluids.
730. Cutting oils.
740. Refrigerating uses.
750. Other fluid uses.

(5) Miscellaneous uses:

810. General laboratory and experimental use (own use only).
811. Laboratory reagents for sale.
812. Product development and pilot plant uses (own use only).
900. Specialized uses (unclassified).

(c) *Conditions governing use.* This formula shall not be used in manufacturing Reagent alcohol general-use formula under § 20.117 of this chapter.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985]

### § 21.38 Formula No. 4.

(a) *Formula.* To every 100 gallons of alcohol, or to every 100 gallons of rum of not less than 150 proof, add:

One gallon of the following solution: Five gallons of an aqueous solution containing 40 percent nicotine; 3.6 avoirdupois ounces of methylene blue, U.S.P.; and water sufficient to make 100 gallons.

(b) *Authorized uses.* (1) As a solvent:

460. Tobacco sprays and flavors.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.39 Formula No. 6–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One-half gallon of pyridine bases.

(b) *Authorized uses.* (1) As a raw material:

523. Miscellaneous ethyl esters.
574. Fulminate of mercury and other detonators.
575. Drugs and medicinal chemicals.
579. Other chemicals.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.40 Formula No. 12–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Five gallons of benzene, or 5 gallons of toluene.

(b) *Authorized uses.* (1) as a solvent:

021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
036. Adhesives and binders.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
351. Processing dyes and intermediates.
352. Processing perfume materials and fixatives.
354. Processing rosin.
358. Processing other chemicals.
359. Processing miscellaneous products.
430. Sterilizing and preserving solutions.

(2) As a raw material:

523. Miscellaneous ethyl esters.
530. Ethylamines.
540. Dyes and intermediates.
575. Drugs and medicinal chemicals.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.41 Formula No. 13–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten gallons of ethyl ether.

(b) *Authorized uses.* (1) As a solvent:

015. Candy glazes.
021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
032. Transparent sheeting.
034. Cellulose intermediates and industrial collodions.
052. Inks (not including meat branding inks).
241. Collodion, U.S.P.
331. Processing pectin.
332. Processing other food products.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
358. Processing other chemicals.
359. Processing miscellaneous products.
430. Sterilizing and preserving solutions.
481. Photoengraving and rotogravure solutions and dyes.

(2) As a raw material:

523. Miscellaneous ethyl esters.
561. Ethyl ether.
562. Other ethers.
575. Drugs and medicinal chemicals.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.42 Formula No. 17.

(a) *Formula.* To every 100 gallons of alcohol add:

Five-hundredths (0.05) gallon (6.4 fluid ounces) of bone oil (Dipple's oil).

(b) *Authorized uses.* (1) As a solvent:

344. Processing medicinal chemicals (including alkaloids).
358. Processing other chemicals.
359. Processing miscellaneous products.

(2) As a raw material:

575. Drugs and medicinal chemicals.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.43 Formula No. 18.

(a) *Formula.* To every 100 gallons of alcohol of not less than 160 proof add:

One hundred gallons of vinegar of not less than 90-grain strength or 150 gallons of vinegar of not less than 60-grain strength.

(b) *Authorized uses.* (1) As a raw material:

511. Vinegar.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.44 Formula No. 19.

(a) *Formula.* To every 100 gallons of alcohol add:

One hundred gallons of ethyl ether.

(b) *Authorized uses.* (1) As a solvent:

031. Photographic film and emulsions.
034. Cellulose intermediates and industrial collodions.
241. Collodion, U.S.P.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.45 Formula No. 20.

(a) *Formula.* To every 100 gallons of alcohol add:

Five gallons of chloroform.

(b) *Authorized uses.* (1) As a raw material:

579. Miscellaneous chemicals (chloroform).

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.46 Formula No. 22.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten gallons of formaldehyde solution, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

420. Embalming fluids and related products.
430. Sterilizing and preserving solutions.
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.47 Formula No. 23–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Eight gallons of acetone, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.
013. Shellac coatings.
014. Other natural resin coatings.
015. Candy glazes.
016. Other coatings.
032. Transparent sheeting.
034. Cellulose intermediates and industrial collodions.
035. Soldering flux.
036. Adhesives and binders.
042. Solvents and thinners (other than proprietary solvents or special industrial solvents).
052. Inks (including meat branding inks).
053. Stains (wood, etc.).
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Body deodorants and deodorant creams.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
244. Antiseptic solutions, U.S.P. or N.F.
249. Miscellaneous external pharmaceuticals, U.S.P. or N.F.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
358. Processing other chemicals.
359. Processing miscellaneous products.
410. Disinfectants, insecticides, fungicides, and other biocides.
420. Embalming fluids and related products.
430. Sterilizing and preserving solutions.
440. Industrial detergents and soaps.
450. Cleaning solutions (including household detergents).
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

(2) As a fluid:

740. Refrigerating uses.
750. Miscellaneous fluid uses.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.48 Formula No. 23–F.

(a) *Formula.* To every 100 gallons of alcohol add:

Three pounds of salicylic acid, U.S.P., 1 pound of resorcinol (resorcin), U.S.P., and 1 gallon of bergamot oil, N.F. XI, or bay oil (myrcia oil), N.F. XI.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
210. External pharmaceuticals, not U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.49 Formula No. 23–H.

(a) *Formula.* To every 100 gallons of alcohol add:

Eight gallons of acetone, U.S.P., and 1.5 gallons of methyl isobutyl ketone.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
113. Lotions and creams (hand, face, and body).
210. External pharmaceuticals, not U.S.P. or N.F.
220. Rubbing alcohols.
410. Disinfectants, insectides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.50 Formula No. 25.

(a) *Formula.* To every 100 gallons of alcohol add:

Twenty pounds of iodine, U.S.P., and 15 pounds of either potassium iodide, U.S.P., or sodium iodide, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

230. Tinctures of iodine.
249. Miscellaneous external pharmaceuticals, U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.51 Formula No. 25–A.

(a) *Formula.* To every 100 gallons of alcohol add:

A solution composed of 20 pounds of iodine, U.S.P.; 15 pounds of either potassium iodide, U.S.P., or sodium iodide, U.S.P.; and 15 pounds of water.

(b) *Authorized uses.* (1) As a solvent:

230. Tinctures of iodine.
249. Miscellaneous external pharmaceuticals, U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.52 Formula No. 27.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of rosemary oil, N.F. XII, and 30 pounds of camphor, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

210. External pharmaceuticals, not U.S.P. or N.F.
243. Liniments, U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.53 Formula No. 27–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Thirty-five pounds of camphor, U.S.P., and 1 gallon of clove oil, N.F.

(b) *Authorized uses.* (1) As a solvent:

210. External pharmaceuticals, not U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.54 Formula No. 27–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of lavender oil, N.F., and 100 pounds of green soap, U.S.P.

NOTE. The requirements of this formula may be met by adding 1 gallon of lavender oil, N.F., and 66.5 pounds of U.S.P. quality soap concentrate containing 25 percent water to 100 gallons of alcohol and, after mixing, by adding thereto 33.5 pounds of water and again mixing.

(b) *Authorized uses.* (1) As a solvent:

141. Shampoos.
210. External pharmaceuticals, not U.S.P. or N.F.
243. Liniments, U.S.P. or N.F.
410. Disinfectants insecticides, fungicides, and other biocides.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.55 Formula No. 28–A.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon or any combination totaling 1 gallon of either gasoline, unleaded gasoline, heptane, or rubber hydrocarbon solvent.

(b) *Authorized uses.* (1) As a fuel:

611. Automobile and supplementary fuels.

612. Airplane and supplementary fuels.
613. Rocket and jet fuels.
620. Proprietary heating fuels.
630. Other fuel uses.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.56 Formula No. 29.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of 100 percent acetaldehyde or 5 gallons of an alcohol solution of acetaldehyde containing not less than 20 percent acetaldehyde, or 1 gallon of ethyl acetate having an ester content of 100 percent, or, where approved by the appropriate TTB officer, as to material and quantity, not less than 6.8 pounds if solid, or 1 gallon if liquid, of any chemical. When material other than acetaldehyde or ethyl acetate is proposed to be used, the user shall submit an application for such use to the appropriate TTB officer. The application shall include specifications, assay methods, and an 8-ounce sample of the substitute material for analysis.

(b) *Authorized uses.* (1) As a raw material:

511. Vinegar.
512. Acetic acid.
521. Ethyl acetate.
522. Ethyl chloride.
523. Other ethyl esters.
530. Ethylamines.
540. Dyes and intermediates.
551. Acetaldehyde.
552. Other aldehydes.
561. Ethyl ether.
562. Other ethers.
571. Ethylene dibromide.
572. Ethylene gas.
573. Xanthates.
575. Drugs and medicinal chemicals.
579. Other chemicals.
580. Synthetic rubber.
590. Synthetic resins.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* This formula is restricted to processes in which the alcohol loses its identity by being converted into other chemicals.

### § 21.57 Formula No. 30.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten gallons of methyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.
021. Cellulose plastics.
022. Non-cellulose plastics, including resins.
031. Photographic film and emulsions.
035. Soldering flux.
036. Adhesives and binders.
042. Solvents and thinners (other than proprietary solvents or special industrial solvents).
051. Polishes.
052. Inks (not including meat branding inks).
053. Stains.
142. Soap and bath preparations.
331. Processing pectin.
332. Processing other food products.
341. Processing crude drugs.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
345. Processing blood and blood products.
349. Miscellaneous drug processing (including manufacture of pills).
352. Processing perfume materials and fixatives.
353. Processing photographic chemicals.
358. Processing other chemicals.
359. Processing miscellaneous products.
410. Disinfectants, insecticides, fungicides, and other biocides.
430. Sterilizing and preserving solutions.
440. Industrial detergents and soaps.
450. Cleaning solutions (including household detergents).
481. Photoengraving and rotogravure solutions and dyes.
482. Other dye solutions.
485. Miscellaneous solutions (including duplicating fluids).

(2) As a raw material:

575. Drugs and medicinal chemicals.
576. Organo-silicone products.
579. Other chemicals.
590. Synthetic resins.

(3) As a fluid in:

740. Refrigerating uses.
750. Other fluid uses:

(4) Miscellaneous uses:

810. General laboratory and experimental use (own use only).
811. Laboratory reagents for sale.
812. Product development and pilot plant uses (own use only).

### § 21.58 Formula No. 31–A.

(a) *Formula.* To every 100 gallons of alcohol add:

One hundred pounds of glycerin (glycerol), U.S.P., and 20 pounds of hard soap, N.F. XI.

(b) *Authorized uses.* (1) As a solvent:

113. Lotions and creams (hands, face, and body).
131. Tooth paste and tooth powder.
141. Shampoos.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.59 Formula No. 32.

(a) *Formula.* To every 100 gallons of alcohol add:

Five gallons of ethyl ether.

(b) *Authorized uses.* (1) As a solvent:

031. Photographic film and emulsions.
034. Cellulose intermediates and industrial collodions.
052. Inks (not including meat branding inks).
241. Collodion, U.S.P.
311. Ethyl cellulose compounds (dehydration).
332. Processing miscellaneous food products.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
430. Sterilizing and preserving solutions.
481. Photoengraving and rotogravure solutions and dyes.

(2) As a raw material:

522. Ethyl chloride.
523. Other ethyl esters.
561. Ethyl ether.
562. Other ethers.
571. Ethylene dibromide.
572. Ethylene gas.
575. Drugs and medicinal chemicals.
579. Other chemicals.
580. Synthetic rubber.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.60 Formula No. 33.

(a) *Formula.* To every 100 gallons of alcohol add:

Thirty pounds of gentian violet or gentian violet, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

052. Inks (not including meat branding inks).
210. External pharmaceuticals, not U.S.P. or N.F.
249. Miscellaneous external pharmaceuticals, U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* Meat branding inks made with Formula No. 33 do not meet U.S. Department of Agriculture meat inspection specifications for use in Federally inspected establishments. Specially denatured alcohol Formulas No. 3–A, 3–C, and 23–A are authorized for this purpose.

### §21.61 Formula No. 35.

(a) *Formula.* To every 100 gallons of alcohol add:

29.75 gallons of ethyl acetate having an ester content of 100 percent by weight or the equivalent thereof not to exceed 35 gallons of ethyl acetate with an ester content of not less than 85 percent by weight.

(b) *Authorized uses.* (1) As a solvent:

015. Candy glazes.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.62 Formula No. 35–A.

(a) *Formula.* To every 100 gallons of alcohol add:

4.25 gallons of ethyl acetate having an ester content of 100 percent by weight or the equivalent thereof not to exceed 5 gallons of ethyl acetate with an ester content of not less than 85 percent by weight.

(b) *Authorized uses.* (1) As a solvent:

015. Candy glazes.
331. Processing pectin.
332. Processing other food products.
342. Processing glandular products, vitamins, hormones, and yeasts.
343. Processing antibiotics and vaccines.
344. Processing medicinal chemicals (including alkaloids).
349. Miscellaneous drug processing (including manufacture of pills).
358. Processing miscellaneous chemicals.
359. Processing miscellaneous products.

(2) As a raw material:

511. Vinegar.
512. Acetic acid.
521. Ethyl acetate.
523. Other ethyl esters.
590. Synthetic resins.

910. Animal feed supplements.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.63 Formula No. 36.

(a) *Formula.* To every 100 gallons of alcohol add:

Three gallons of ammonia, aqueous, 27 to 30 percent by weight; 3 gallons of strong ammonia solution, N.F.: 17.5 pounds of caustic soda, liquid grade, containing 50 percent sodium hydroxide by weight; or 12.0 pounds of caustic soda, liquid grade, containing 73 percent sodium hydroxide by weight.

(b) *Authorized uses.* (1) As a solvent:

141. Shampoos.
142. Soap and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
450. Cleaning solutions (including household detergents).

(2) As a raw material:

530. Ethylamines.
540. Dyes and intermediates.
579. Other chemicals.

(3) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.64 Formula No. 37.

(a) *Formula.* To every 100 gallons of alcohol add:

Forty-five fluid onces of eucalyptol, N.F. XII, 30 avoirdupois ounces of thymol, N.F., and 20 avoirdupois ounces of menthol, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
131. Dentifrices.
132. Mouth washes.
210. External pharmaceuticals, not U.S.P. or N.F.
244. Antispetic solutions, U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.
430. Sterilizing and preserving solutions.
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.65 Formula No. 38–B.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten pounds of any one, or a total of 10 pounds of two or more, of the oils and substances listed below:

Alpha terpineol
Anethole, N.F.
Anise oil, N.F.
Bay oil (myrcia oil), N.F. XI.
Benzaldehyde, N.F.
Bergamot oil, N.F. XI.
Bitter almond oil, N.F. X.
Camphor, U.S.P.
Cedar leaf oil, U.S.P. XIII.
Chlorothymol, N.F. XII.
Cinnamic aldehyde, N.F. IX.
Cinnamon oil, N.F.
Citronella oil, natural.
Clove oil, N.F.
Coal tar, U.S.P.
Eucalyptol, N.F. XII.
Eucalyptus oil, N.F.
Eugenol, U.S.P.
Guaiacol, N.F. X.
Lavender oil, N.F.
Menthol, U.S.P.
Methyl salicylate, N.F.
Mustard oil, volatile (allyl isothiocyanate), U.S.P. XII.
Peppermint oil, N.F.
Phenol, U.S.P.
Phenyl salicylate (salol), N.F. XI.
Pine oil, N.F. XII.
Pine needle oil, dwarf, N.F.
Rosemary oil, N.F. XII.
Safrole.
Sassafras oil, N.F. XI.
Spearmint oil, N.F.
Spearmint oil, terpeneless.
Spike lavender oil, natural.
Storax, U.S.P.
Thyme oil, N.F. XII.
Thymol, N.F.
Tolu balsam, U.S.P.
Turpentine oil, N.F. XI.

If it is shown that none of the above single denaturants or combinations can be used in the manufacture of a particular product, the user may submit an application to the appropriate TTB officer, requesting permission to use another essential oil or substance having denaturing properties satisfactory to the appropriate TTB officer. In such a case the user shall furnish the appropriate TTB officer, with specifications, assay methods, the name and address of the manufacturer, and an 8-ounce sample of the denaturant for analysis.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.

112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
131. Dentifrices.
132. Mouth washes.
141. Shampoos.
142. Soap and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
243. Liniments, U.S.P. or N.F.
244. Antiseptic solutions, U.S.P. or N.F.
249. Miscellaneous external pharmaceuticals, U.S.P. or N.F.
349. Miscellaneous drug processing (including manufacture of pills).
410. Disinfectants, insecticides, fungicides, and other biocides.
430. Sterlizing and preserving solutions.
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.66 Formula No. 38–C.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten pounds of menthol, U.S.P., and 1.25 gallons of formaldehyde solution, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

131. Dentifrices.
132. Mouth washes.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.67 Formula No. 38–D.

(a) *Formula.* To every 100 gallons of alcohol add:

Two and one-half pounds of menthol, U.S.P., and 2.5 gallons of formaldehyde solution, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

131. Dentifrices.
132. Mouth washes.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.68 Formula No. 38–F.

(a) *Formula.* To every 100 gallons of alcohol add:

(1) Six pounds of either boric acid, N.F., or Polysorbate 80, N.F.; 1⅓ pounds of thymol, N.F.; 1⅓ pounds of chlorothymol, N.F. XII; and 1⅓ pounds of menthol, U.S.P.; or
(2) A total of at least 3 pounds of any two or more denaturing materials listed under Formula No. 38–B, plus sufficient boric acid, N.F., or Polysorbate 80, N.F., to total 10 pounds of denaturant; or
(3) Seven pounds of zinc chloride, U.S.P., 2.6 fluid ounces of hydrochloric acid, N.F., and a total of 3 pounds of any two or more of the denaturing materials listed under Formula No. 38–B.

(b) *Authorized uses.* (1) As a solvent:

132. Mouth washes.
210. External pharmaceuticals, not U.S.P. or N.F.
244. Antiseptic solutions, U.S.P. or N.F.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.69 Formula No. 39.

(a) *Formula.* To every 100 gallons of alcohol add:

Nine pounds of sodium salicylate, U.S.P., or salicylic acid, U.S.P.; 1.25 gallons of fluid extract of quassia, N.F. VII; and ⅛ gallon of *tert*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
121. Perfume and perfume tinctures.
122. Toilet waters and colognes.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.70 Formula No. 39–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Sixty avoirdupois ounces of any one of the following alkaloids or salts together with ⅛ gallon of *tert*- butyl alcohol:
Quinine, N.F. X.
Quinine bisulfate, N.F. XI.
Quinine dihydrochloride, N.F. XI.
Cinchonidine.
Cinchonidine sulfate, N.F. IX.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.

122. Toilet waters and colognes.
141. Shampoos.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.71 Formula No. 39–B.

(a) *Formula.* To every 100 gallons of alcohol add:

Two and one-half gallons of diethyl phthalate and ⅛ gallon of *tert*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soap and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.72 Formula No. 39–C.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of diethyl phthalate.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
142. Soaps and bath preparations.
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.73 Formula No. 39–D.

(a) *Formula.* To every 100 gallons of alcohol add:

One gallon of bay oil (myrcia oil), N.F. XI, and either 50 avoirdupois ounces of quinine sulfate, U.S.P., 50 avoirdupois ounces of sodium salicylate, U.S.P.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.74 Formula No. 40.

(a) *Formula.* To every 100 gallons of alcohol add ⅛ gallon of *tert*-butyl alcohol, and:

One and one-half avoirdupois ounces of either (1) brucine alkaloid, (2) brucine sulfate, N.F. IX, (3) quassin, or (4) any combination of two or of three of those denaturants.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### § 21.75 Formula No. 40–A.

(a) *Formula.* To every 100 gallons of alcohol add:

One pound of sucrose octaacetate and ⅛ gallon of *tert*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.

410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.76 Formula No. 40–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One-sixteenth avoirdupois ounce of denatonium benzoate, N.F., and ⅛ gallon of *tert*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.77 Formula No. 40–C.

(a) *Formula.* To every 100 gallons of alcohol add:

Three gallons of *tert*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals, not U.S.P. or N.F.
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
485. Miscellaneous solutions.

(2) Miscellaneous uses.

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* This formula shall be used only in the manufacture of products which will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form.

### §21.78 Formula No. 42.

(a) *Formula.* To every 100 gallons of alcohol add:

(1) Eighty grams of potassium iodide, U.S.P., and 109 grams of red mercuric iodide, N.F. XI; or
(2) Ninety-five grams of thimerosal, U.S.P.; or
(3) Seventy-six grams of any of the following: phenyl mercuric nitrate, N.F.; phenyl mercuric chloride, N.F. IX; or phenyl mercuric benzoate.

(b) *Authorized uses.* (1) As a solvent:

430. Sterilizing and preserving solutions.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.79 Formula No. 44.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten gallons of *n*-butyl alcohol

(b) *Authorized uses.* (1) As a solvent:

430. Sterilizing and preserving solutions.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

### §21.80 Formula No. 45.

(a) *Formula.* To every 100 gallons of alcohol add:

Three hundred pounds of refined white or orange shellac.

(b) *Authorized uses.* (1) As a solvent:

015. Candy glazes.

(2) Miscellaneous uses:

812 Product development and pilot plant uses (own use only).

### § 21.81 Formula No. 46.

(a) *Formula.* To every 100 gallons of alcohol add:

Twenty-five fluid ounces of phenol, U.S.P., and 4 fluid ounces of methyl salicylate, N.F.

(b) *Authorized uses.* (1) As a solvent:

220. An antiseptic, sterilizing, and bathing solution having restricted use.

(2) Miscellaneous uses:

812. Product development and pilot plant uses (own use only).

(c) *Conditions governing use.* This formula may be used only by institutions and organizations which are of a semipublic character and engaged in charitable work.

## Subpart E—Specifications for Denaturants

### § 21.91 General.

Denaturants prescribed in this part shall comply with the specifications set forth in this subpart. However, in order to meet requirements of national defense or for other valid reasons, the appropriate TTB officer may, pursuant to written application filed by the denaturer, authorize variations from such specifications or authorize the use of substitute denaturants if such variation or substitution will not jeopardize the revenue. Each such application shall identify the applicant by name, address, and permit number; state the number of each formula of specially denatured alcohol involved; explain why the use of the substitute denaturant, or the variation from specifications, as the case may be, is necessary; and include, as applicable, either the identity of the approved denaturant for which substitution is desired and the identity of the substitute denaturant (including the name of the manufacturer) or the identity of the prescribed specifications and the proposed variation from those specifications. The application shall be accompanied by an 8-ounce sample of the proposed denaturing material for analysis.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.92 Denaturants listed as U.S.P. or N.F.

Denaturing materials and products listed in this part as ''U.S.P.'' or ''N.F.'' shall meet the specifications set forth in the current United States Pharmacopoeia or National Formulary, or the latest volume of these publications in which the denaturants appeared as official preparations.

### § 21.93 Acetaldehyde.

(a) *Aldehyde content (as acetaldehyde).* Not less than 95.0 percent by weight.

(b) *Color.* Colorless.

(c) *Odor.* Characteristic pungent, fruity odor.

(d) *Specific gravity at 15.56 °/15.56 °C.* Not less than 0.7800.

### § 21.94 Acetaldol.

(a) *Purity.* Not less than 90 percent by weight acetaldol as determined by the following method:

Dissolve 15 grams of the acetaldol in distilled water and dilute to 1 liter in a volumetric flask. Transfer 5 ml of this solution to a 250 ml glass-stoppered flask containing 25 ml distilled water. Add 25 ml of a freshly prepared 1 percent sodium bisulfite solution. Prepare a blank omitting the acetaldol solution. Place the flasks in a dark place away from excessive heat or cold and allow to stand six hours. Remove flasks and titrate free bisulfite with 0.1 N iodine solution using starch indicator.

Percent acetaldol by weight=(ml blank − ml test)×200×0.44/weight of sample

Titrations in excess of 100 percent may be obtained if the sample contains appreciable amounts of acetaldehyde.

(b) *Specific gravity at 20 °C.* 1.098 to 1.105.

### § 21.95 Alpha terpineol.

(a) Boiling point at 752mm 218.8–219.4 °C.

(b) Density at 15° 0.9386.

(c) Refractive index at 20° 1.4831.

[T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.96 Ammonia, aqueous.

(a) *Alkalinity.* Strongly alkaline to litmus.

(b) *Ammonia content.* 27 to 30 percent by weight. Accurately weigh a glass-stoppered flask containing 25 ml of water, add about 2 ml of the sample, stopper, and weigh again. Add methyl red indicator, and titrate with 1 N sulfuric acid. Each ml of 1 N sulfuric acid is equivalent to 17.03 mg of $NH_3$

(c) *Color.* Colorless liquid.

(d) *Non-volatile residue.* 2 mg maximum. Dilute a portion of the sample with 1½ times its volume of distilled water. Evaporate 10 ml of this product to dryness in a tared platinum or porcelain dish. Dry residue at 105 °C. for 1 hour, cool and weigh.

(e) *Odor.* Characteristic (exceedingly pungent).

(f) *Specific gravity at 20 °/4 °C.* 0.8920 to 0.9010.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.97 Benzene.

(a) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 29, page 573, Standard No. D 836–77; for incorporation by reference, see §21.6(b).) When 100 ml of benzene are distilled by this method, not more than 1 ml should distill below 77 °C., and not less than 95 ml below 85 °C.

(b) *Odor.* Characteristic odor.

(c) *Specific gravity at 15.6 °/15.6 °C.* 0.875 to 0.886.

(d) *Water solubility.* When 10 ml of benzene are shaken with an equal volume of water in a glass-stoppered bottle, graduated to 0.1 ml, and allowed to stand 5 minutes to separate, the upper layer of liquid shall measure not less than 9.5 ml.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.98 Bone oil (Dipple's oil).

(a) *Color.* The color shall be a deep brown.

(b) *Distillation range.* When 100 ml are distilled in the manner described for pyridine bases, not more than 5.0 ml should distill below 90 °C.

(c) *Pyrrol reaction.* Prepare a 1.0 percent solution of bone oil in 95 percent alcohol. Prepare a second solution containing 0.025 percent bone oil by diluting 2.50 ml of the first solution to 100 ml with 95 percent alcohol. Dip a splinter of pine, previously moistened with concentrated hydrochloric acid, into 10 ml of the 0.025 percent bone oil solution. After a few minutes the splinter should show a distinct red coloration.

(d) *Reaction with mercuric chloride.* Add 5 ml of the 1.0 percent bone oil solution above to 5 ml of a 2 percent alcoholic solution of mercuric chloride. A turbidity is formed at once which separates into a flocculent precipitate on standing several minutes. Add 5.0 ml of the 0.025 percent bone oil solution to 5.0 ml of a 2.0 percent alcoholic solution of mercuric chloride. A faint turbidity appears after several minutes.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### §21.99 Brucine alkaloid.

(a) *Identification test.* Add a few drops of concentrated nitric acid to about 10 mg of brucine alkaloid. A vivid red color is produced. Dilute the red solution with a few drops of water and add a few drops of freshly made dilute stannous chloride solution. A reddish purple (violet) color is produced.

(b) *Melting point.* 178 °±1 °C. Dry the alkaloid in an oven for one hour at 100 °C., increase the temperature to 110° and dry to a constant weight before taking melting point.

NOTE. Brucine alkaloid tetrahydrate melts at 105 °C. while the anhydrous form melts at 178 °C.

(c) *Strychnine test.* Brucine alkaloid shall be free of strychnine when tested by the method listed under Brucine Sulfate, N.F. IX.

NOTE. If the brucine contains as much as 0.05 percent strychnine, a clear distinctive violet color, characteristic of strychnine, will be obtained.

(d) *Sulfate test.* No white precipitate is formed that is not dissolved by hydrochloric acid when several drops of a

1 N barium chloride solution are added to 10 ml of a solution of the alkaloid.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.100 *n*-Butyl alcohol.

(a) *Acidity (as acetic acid).* 0.03 percent by weight maximum.

(b) *Color.* Colorless.

(c) *Dryness at 20 °C.* Miscible without turbidity with 10 volumes of 60° Bé1. gasoline.

(d) *Odor.* Characteristic odor.

(e) *Specific gravity at 20 °/20 °C.* 0.810 to 0.815.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.101 *tert*-Butyl alcohol.

(a) *Acidity (as acetic acid).* 0.003 percent by weight maximum.

(b) *Color.* Colorless.

(c) *Distillation range.* When 100 ml of tertiary butyl alcohol are distilled, none should distill below 78 °C. and none above 85 °C. More than 95 percent should distill between 81 °−83 °C.

(d) *Dryness at 20 °C.* Miscible without turbidity with 19 volumes of 60° Bé1. gasoline.

(e) *Freezing point (first needle).* Above 20 °C.

(f) *Identification test.* Place five drops of a solution containing approximately 0.1 percent tertiary butyl alcohol in ethyl alcohol in a test tube. Add 2 ml of Denige's reagent (dissolve 5 grams of red mercuric oxide in 20 ml of concentrated sulfuric acid; add this solution to 80 ml of distilled water, and filter when cool). Heat the mixture just to the boiling point and remove from the flame. A yellow precipitate forms within a few seconds.

(g) *Nonvolatile matter.* Less than 0.005 percent by weight.

(h) *Odor.* Characteristic odor.

(i) *Residual odor after evaporation.* None.

(j) *Specific gravity at 25 °/25 °C.* 0.780 to 0.786.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.102 Caustic soda, liquid.

(a) The liquid caustic soda may consist of either 50 percent or 73 percent by weight sodium hydroxide in aqueous solution. The amount of caustic soda used shall be such that each 100 gallons of alcohol will contain not less than 8.76 pounds of sodium hyroxide, anhydrous basis.

(b) *Color.* A 2 percent solution of the sodium hydroxide in water shall be water-white.

(c) *Assay.* The sodium hydroxide content of the caustic soda solution shall be determined by the following procedure:

Accurately weigh 2 grams of liquid caustic soda into a 100 ml volumetric flask, dissolve, and dilute to the mark with distilled water at room temperature. Transfer a 25 ml aliquot of the solution to a titration flask, add 10 ml of 1 percent barium chloride solution, 0.2 ml of 1 percent phenolphthalein indicator, and 50 ml of distilled water. Titrate with 0.25 N hydrochloric acid to the disappearance of the pink color. Not less than 25 ml of the hydrochloric acid shall be required to neutralize the sample of diluted 50 percent caustic soda, and not less than 36.5 ml of the hydrochloric acid shall be required to neutralize the sample of diluted 73 percent caustic soda.

One ml of 0.25 N hydrochloric acid equals 0.01 gram of sodium hydroxide (anhydrous).

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.103 Chloroform.

(a) *Odor.* Characteristic odor.

(b) *Specific gravity at 25 °/25 °C.* Not less than 1.400.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.104 Cinchonidine.

(a) *Melting point.* 208° to 210 °C.

(b) *Color.* White powder.

(c) *Taste.* Bitter.

(d) *Test.* A solution of cinchonidine in dilute sulfuric acid shall not have more than a faint blue fluorescence (to distinguish from quinine and quinoidine).

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.105 Citronella oil, natural.

(a) *Java type:*

(1) *Alcohol content (as Geraniol).* Not less than 85 percent by weight.

(2) *Aldehyde content (as Citronellal).* Not less than 30 percent by weight.

(3) *Refractive index at 20 °C.* 1.4660 to 1.4745.

(4) *Specific gravity at 25 °/25 °C.* 0.875 to 0.893.

(5) *Odor.* Characteristic odor.

(b) *Ceylon type:*

(1) *Alcohol content (as Geraniol).* Not less than 55 percent by weight.

(2) *Aldehyde content (as Citronellal).* Not less than 7 percent by weight.

(3) *Refractive index at 20 °C.* 1.4790 to 1.4850.

(4) *Specific gravity at 25 °/25 °C.* 0.891 to 0.904.

(5) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.106 Diethyl phthalate.

(a) *Refractive index at 25 °C.* 1.497 to 1.502.

(b) *Color.* Colorless.

(c) *Odor.* Practically odorless.

(d) *Solubility.* Soluble in 20 parts of 60 percent alcohol.

(e) *Specific gravity at 25 °/25 °C.* 1.115 to 1.118.

(f) *Ester content (as diethyl phthalate).* Not less than 99 percent by weight.

NOTE. The sample taken for ester determination should be approximately 0.8 gram. The number of ml of 0.5 N potassium hydroxide used in saponification multiplied by 0.05555 indicates the number of grams of ester in the sample taken for assay.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.107 Ethyl acetate.

(a) *85 percent ester:*

(1) *Acidity (as acetic acid).* Not more than 0.015 percent by weight.

(2) *Color.* Colorless.

(3) *Odor.* Characteristic odor.

(4) *Ester content.* Not less than 85 percent by weight.

(5) *Specific gravity at 20 °/20 °C.* Not less than 0.882.

(6) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 29, page 70, Standard No. D 302–58 (1975); for incorporation by reference, see § 21.6(b).) When 100 ml of ethyl acetate are distilled by this method, none shall distill below 70 °C., not more than 10 ml shall distill below 72 °C., and none above 80 °C.

(b) *100 percent ester:*

(1) *Acidity (as acetic acid).* Not more than 0.010 percent by weight.

(2) *Color.* Colorless.

(3) *Odor.* Characteristic odor.

(4) *Ester content.* Not less than 99 percent by weight.

(5) *Specific gravity at 20 °/20 °C.* Not less than 0.899.

(6) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 29, page 433, Standard No. D 3127–77; for incorporation by reference, see § 21.6(b).) When 100 ml of ethyl acetate are distilled by this method, not more than 2 ml shall distill below 75 °C., and none above 80 °C. (760 mm).

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.108 Ethyl ether.

(a) *Odor.* Characteristic odor.

(b) *Specific gravity at 15.56 °/15.56 °C.* Not more than 0.728.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.109 Gasoline.

(a) *Distillation range.* When 100 ml of gasoline are distilled, none shall distill below 90 °F. Not more than 5 ml shall be collected below 140 °F., and not less than 50 ml shall distill below 230 °F.

(b) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.110 Gasoline, unleaded.

Conforms to specifications as established by the American Society for Testing and Materials (ASTM) in the 1980 Annual Book of ASTM Standards, Part 23, page 229, Standard No. D 439–79. Any of the ''seasonal and geographical'' volatility classes for unleaded gasoline are considered suitable

as a denaturant. (For incorporation by reference, see § 21.6(b).)

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.111 Gentian violet.

(a) Gentian violet (methyl violet, methylrosaniline chloride) occurs as a dark green powder or crystals having metallic luster.

(b) *Arsenic content.* Not more than 15 ppm. (as $As_2O_3$) as determined by the applicable U.S.P. method.

(c) *Identification test.* Sprinkle about 1 mg of sample on 1 ml of sulfuric acid; it dissolves in the acid with an orange or brown-red color. When this solution is diluted cautiously with water, the color changes to brown, then to green, and finally to blue.

(d) *Insoluble matter.* Not to exceed 0.25 percent when tested by the following method:

Transfer 1.0 gram of sample to a 150 ml beaker containing 50 ml of alcohol. Stir to complete solution and filter through a weighed Whatman No. 4 filter paper. Wash residue with small amounts of alcohol totaling about 50 ml. Dry paper in oven for 30 minutes at 80 °C. and weigh. Calculate insoluble material.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.112 Heptane.

(a) *Distillation range.* No distillate should come over below 200 °F. and none above 211 °F.

(b) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.113 Isopropyl alcohol.

*Specific gravity at 15.56 °/15.56 °C.* 0.810 maximum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.114 Kerosene.

(a) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 25, page 395, Standard No. D 3699–78 for burner fuel; see Part 23, page 849, Standard Nos. D 1655–80a for aviation turbine fuels and D 86–78 for distillation of petroleum products; for incorporation by reference, see § 21.6(b).) No distillate should come over below 340 °F. and none above 570 °F.

(b) *Flash point.* 115 °F. minimum.

(c) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.115 Kerosene (deodorized).

(a) *Distillation range.* No distillate should come over below 340 °F. and none above 570 °F.

(b) *Flash point.* 155 °F. minimum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.116 Methyl alcohol.

*Specific gravity at 15.56 °/15.56 °C.* 0.810 maximum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.117 Methyl isobutyl ketone.

(a) *Acidity (as acetic acid).* 0.02 percent by weight, maximum.

(b) *Color.* Colorless.

(c) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 29, page 147, Standard No. D 1153–77; for incorporation by reference, see § 21.6(b).) No distillate should come over below 111 °C. and none above 117 °C.

(d) *Odor.* Characteristic odor.

(e) *Specific gravity at 20 °/20 °C.* 0.799 to 0.804.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.118 Methyl *n*-butyl ketone.

(a) *Acidity (as acetic acid).* 0.02 percent by weight, maximum.

(b) *Color.* Colorless.

(c) *Odor.* Characteristic odor.

(d) *Refractive index at 20 °C.* 1.396 to 1.404.

(e) *Specific gravity at 20 °/20 °C.* 0.800 to 0.835.

(f) *Distillation range.* No distillate should come over below 123 °C. and none above 129 °C.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.119 Nicotine solution.

(a) *Composition.* Five gallons of an aqueous solution containing 40 percent nicotine; 3.6 avoirdupois ounces of methylene blue, U.S.P.; water sufficient to make 100 gallons.

(b) *Color.* One ml of the nicotine solution (previously agitated in the presence of air) is measured into 100 ml of water and thoroughly mixed. Fifty ml of this colored solution is compared, using Nessler tubes, with 50 ml of a standard color solution containing 5 grams of $CuSO_4 \cdot 5H_2O$, C.P. in 100 ml of water. The color intensity of the solution tested should be equal to or greater than that of the standard solution.

(c) *Nicotine content.* The above solution must contain not less than 1.88 percent of nicotine determined by the following process: 20 ml of the solution are measured into a 500 ml Kjeldahl flask provided with a suitable bulb tube, 50 ml of 0.1 N NaOH added and the mixture distilled in a current of steam until the distillate is no longer alkaline (about 500 ml). The distillate is then titrated with 0.1 N $H_2SO_4$ using rosolic acid or methyl red as indicator. Not less than 23.2 ml should be required for neutralization.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.120 Nitropropane, mixed isomers of.

(a) *Nitropropane content.* A minimum of 94 percent by weight.

(b) *Total nitroparaffin content.* A minimum of 99 percent by weight.

(c) *Distillation range.* 119° to 113 °C.

(d) *Specific gravity at 20°/20 °C.* 0.992 to 1.003.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.121 Phenyl mercuric benzoate.

(a) *Assay (as phenyl mercuric benzoate).* Not less than 99.0 percent by weight.

(b) *Melting point.* Not less than 94 °C.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.122 Pyridine bases.

(a) *Alkalinity.* One ml of pyridine bases dissolved in 10 ml of water is titrated with 1 N $H_2SO_4$ until a drop of the mixture placed upon Congo paper shows a distinct blue border, which soon disappears. A minimum of 9.5 ml of the acid must be required for the end point. (Congo paper: filter paper treated with 0.1 percent aqueous solution of Congo red and dried.)

(b) *Distillation range.* One hundred ml of the denaturant are distilled in the following manner: The sample is placed in a short-necked glass flask of about 200 ml capacity which is rested on an asbestos plate having a circular opening of 30 mm in diameter. The neck of this flask is fitted with a fractionating tube 12 mm in diameter and 170 mm long and having a bulb just 1 cm below the side tube which is connected with a Liebig condenser having a water jacket not less than 400 mm in length. A standardized thermometer is placed in the fractionating tube so that the mercury bulb is suspended in the center of the fractionating bulb. Heat is applied slowly and in such manner that 5 ml of distillate is collected per minute in a graduated cylinder. At least 50 ml must distill at or below 140 °C. and at least 90 ml below 160 °C.

(c) *Reactions.* Dissolve 1 ml of pyridine bases in 100 ml of water.

(1) Ten ml of this solution are treated with 5 ml of 5 percent aqueous solution of anhydrous fused $CaCl_2$ and the mixture vigorously shaken. An abundant crystalline separation should occur within 10 minutes.

(2) Ten ml of the pyridine solution mixed with 50 ml of Nessler's reagent must give a white precipitate.

(d) *Water content.* Twenty ml of pyridine bases are shaken with 20 ml of a caustic soda solution having a specific gravity of 1.40 (15.56 °/15.56 °C.) and the

mixture allowed to stand until completely separated into two layers. The amount of pyridine base layer should be 18.5 ml, minimum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.123 Pyronate.

Pyronate is a product of the destructive distillation of hardwood meeting the following requirements:

(a) *Acidity (as acetic acid).* Not more than 0.1 percent by weight, determined as follows:

Add 5.0 ml sample to 100 ml distilled water in an Erlenmeyer flask and titrate with 0.1 N NaOH to a bromthymol blue endpoint.

(b) *Color.* The color shall be no darker than the color produced by 2.0 grams of potassium dichromate in 1 liter of water. The comparision shall be made in 4-ounce oil sample bottles viewed crosswise.

(c) *Distillation range.* When 100 ml are distilled not more than 5 ml shall distill below 70 °C., not less than 50 ml below 160 °C., and not less than 90 ml below 205 °C.

NOTE. Any material submitted as pyronate must agree in color, odor, taste and denaturing value with a standard sample furnished by the Alcohol and Tobacco Tax and Trade Bureau to chemists authorized to examine samples of denaturants.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.124 Quassin.

(a) Quassin is the bitter principle of quassia wood (occurring as a mixture of two isomeric forms). It shall be a good commercial grade of purified amorphous quassin, standardized as to bitterness.

(b) *Bitterness.* An aqueous solution of quassin shall be distinctly bitter at a 1 to 250,000 dilution. To test: Dissolve 0.1 gram of quassin in 100 ml of 95 percent alcohol, then dilute 4 ml of the solution to 1,000 ml with distilled water, mix well and taste.

(c) *Identification test.* Dissolve about 0.5 gram of quassin in 10 ml of 95 percent alcohol and filter. To 5 ml of the filtrate, add 5 ml of concentrated hydrochloric acid and 1 mg of phloroglucinol and mix well. A red color develops.

(d) *Optical assay.* When 1 gram of quassin (in solution in a small amount of 95 percent alcohol) is dissolved in 10,000 ml of water, the absorbance of the solution in a 1 cm cell at a wavelength of 258 millimicrons shall not be less than 0.400.

(e) *Solubility.* When 0.5 gram of quassin is added to 25 ml of 190 proof alcohol, it shall dissolve completely.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.125 Rubber hydrocarbon solvent.

(a) Rubber hydrocarbon solvent is a petroleum derivative.

(b) *Distillation range.* When 10 percent of the sample has been distilled into a graduated receiver, the themometer shall not read more than 170 °F. nor less than 90 °F. When 90 percent has been recovered in the receiver the thermometer shall not read more than 250 °F.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.126 Safrole.

(a) *Congealing point.* 10.0° to 11.2 °C.

(b) *Refractive index at 20 °C.* 1.5363 to 1.5385.

(c) *Specific gravity at 15 °/15 °C.* 1.100 to 1.107.

(d) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.127 Shellac (refined).

(a) *Arsenic content.* Not more than 1.4 parts per million as determined by the Gutzeit Method (AOAC method 25.020; for incorporation by reference, see § 21.6(c)).

(b) *Color.* White or orange.

(c) *Rosin content.* None when tested by the following method: Add 20 ml of absolute alcohol or glacial acetic acid (m. p. 13° to 15 °C.) to 2 grams of the shellac and thoroughly dissolve. Add 100 ml of petroleum ether and mix thoroughly. Add approximately 2 liters of water and separate a portion of the ether layer (at least 50 ml) and filter if

cloudy. Evaporate the petroleum ether and test as follows: Solution A—5 ml of phenol dissolved in 10 ml of carbon tetrachloride. Solution B—1 ml of bromine dissolved in 4 ml of carbon tetrachloride. To the residue obtained above add 2 ml of Solution A and transfer the mixture to a porcelain spot plate, filling one cavity. Immediately fill an adjacent cavity with solution B. Cover the plate with a watch glass and observe any color formation in Solution A. A decided purple or deep indigo blue color is an indication of the presence of rosin.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.128 Sodium (metallic).

(a) *Color.* Silvery-white (metallic luster) when freshly cut.

(b) *Identification test.* Clean a platinum wire by dipping it in concentrated hydrochloric acid and holding it over a Bunsen burner until the flame is no longer colored. Moisten the wire loop with hydrochloric acid and dip it into the sample. Hold the wire in the Bunsen flame and note the color. Sodium produces a golden yellow flame; not observed when viewed through a cobalt glass.

(c) *Purity.* Technical grade or better.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.129 Spearmint oil, terpeneless.

(a) *Carvone content.* Not less than 85 percent by weight.

(b) *Refractive index at 20 °C.* 1.4930 to 1.4980.

(c) *Specific gravity at 25 °/25 °C.* 0.949 to 0.956.

(d) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.130 Spike lavender oil, natural.

(a) *Alcohol content (as borneol).* Not less than 30 percent by weight.

(b) *Esters (as bornyl acetate).* Not less than 1.5 percent by weight.

(c) *Refractive index at 20 °C.* 1.4630 to 1.4680.

(d) *Specific gravity at 25 °/25 °C.* 0.893 to 0.909.

(e) *Odor.* Characteristic odor.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.131 Sucrose octaacetate.

(a) Sucrose octaacetate is an organic acetylation product occurring as a white or cream-colored powder having an intensely bitter taste.

(b) *Free acid (as acetic acid).* Maximum percentage 0.15 by weight when determined by the following procedure: Dissolve 1.0 gram of sample in 50 ml of neutralized ethyl alcohol (or S.D.A. No. 3–A, No. 3–C, or No. 30) and titrate with 0.1 N sodium hydroxide using phenolphthalein indicator.

Percent acid as acetic acid=ml NaOH used×0.6/ weight of sample

(c) *Insoluble matter.* 0.30 percent by weight maximum.

(d) *Melting point.* Not less than 78.0 °C.

(e) *Purity.* Sucrose octaacetate 98 percent minimum by weight when determined by the following procedure: Transfer a weighed 1.50 grams sample to a 500 ml Erlenmeyer flask containing 100 ml of neutral ethyl alcohol (or S.D.A. No. 3–A, No. 3–C, or No. 30) and exactly 50.0 ml of 0.5 N sodium hydroxide. Reflux for 1 hour on a steam bath, cool and titrate the excess sodium hydroxide with 0.5 N sulfuric acid using phenolphthalein indicator.

Percent sucrose octaacetate=(ml NaOH − ml $H_2SO_4$)×4.2412/weight of sample

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.132 Toluene.

(a) *Distillation range.* (For applicable ASTM method, see 1980 Annual Book of ASTM Standards, Part 29, page 569, Standard No. D 362–75 for industrial grade toluene; for incorporation by reference, see § 21.6(b).) When 100 ml of toluene are distilled by this method, not more than 1 ml should distill below 109 °C., and not less than 99 ml below 112 °C.

(b) *Boiling point.* 110.6 °±1 °C.

(c) *Odor.* Characteristic odor.

(d) *Specific gravity at 15.56 °/15.56 °C.* 0.869 to 0.873.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

### § 21.133 Vinegar.

(a) *Vinegar, 90-grain:*

*Acidity (as acetic acid).* 9.0 percent by weight, minimum.

(b) *Vinegar, 60-grain:*

*Acidity (as acetic acid).* 6.0 percent by weight, minimum.

[T.D. ATF–133, 48 FR 24673, June 2, 1983. Redesignated by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

## Subpart F—Uses of Specially Denatured Alcohol and Specially Denatured Rum

### § 21.141 List of products and processes using specially denatured alcohol and rum, and formulas authorized therefor.

This section lists, alphabetically by product or process, formulas of specially denatured alcohol authorized for use in those products or processes, and lists the code numbers assigned thereto. Specially denatured rum, as well as specially denatured alcohol, may be used in tobacco sprays and flavors, Code No. 460, under Formula No. 4.

USES OF SPECIALLY DENATURED ALCOHOL [1]

| Product or process | Code No. | Formulas authorized |
|---|---|---|
| Acetaldehyde | 551 | 1, 2–B, 29. |
| Acetic acid | 512 | 29, 35–A. |
| Adhesives and binders | 036 | 1, 3–A, 3–C, 12–A, 23–A, 30. |
| Aldehydes, miscellaneous. | 552 | 1, 2–B, 29. |
| Alkaloids (processing) | 344 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 13–A, 17, 23–A, 30, 32, 35–A. |
| Animal feed supplements. | 910 | 35–A. |
| Antibiotics (processing) | 343 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |
| Antifreeze, proprietary | 760 | 1. |
| Antiseptic, bathing solution (restricted). | 220 | 46. |
| Antiseptic solutions, U.S.P. or N.F. | 244 | 23–A, 37, 38–B, 38–F. |
| 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. |
| Bay rum | 112 | 23–A, 37, 38–B, 39, 39–B, 39–D, 40, 40–A, 40–B, 40–C. |

USES OF SPECIALLY DENATURED ALCOHOL [1]—Continued

| Product or process | Code No. | Formulas authorized |
|---|---|---|
| Biocides, miscellaneous | 410 | 1, 3–A, 3–B, 3–C, 23–A, 23–H, 27–A, 27–B, 30, 37, 38–B, 39–B, 40, 40–A, 40–B, 40–C. |
| Blood and blood products (processing). | 345 | 1, 3–A, 3–C, 12–A, 13–A, 23–A, 30. |
| Brake fluids | 720 | 1, 3–A, 3–C. |
| Candy glazes | 015 | 13–A, 23–A, 35, 35–A, 45. |
| Cellulose coatings | 011 | 1, 3–A, 3–C, 23–A, 30. |
| Cellulose compounds (dehydration). | 311 | 1, 2–B, 3–A, 3–C, 32. |
| Cellulose intermediates | 034 | 1, 3–A, 3–C, 13–A, 19, 23–A, 32. |
| Chemicals (miscellaneous). | 579 | 1, 2–B, 2–C, 3–A, 3–C, 6–B, 12–A, 13–A, 17, 20, 29, 30, 32, 36. |
| Cleaning solutions | 450 | 1, 3–A, 3–C, 23–A, 23–H, 30, 36, 39–B, 40, 40–A, 40–B, 40–C. |
| Coatings, miscellaneous | 016 | 1, 3–A, 3–C, 23–A. |
| Collodions, industrial | 034 | 1, 3–A, 3–C, 13–A, 19, 23–A, 32. |
| Collodion, U.S.P. | 241 | 13–A, 19, 32. |
| Colognes | 122 | 38–B, 39, 39–A, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Crude drugs (processing). | 341 | 1, 2–B, 3–A, 3–C, 23–A, 30. |
| Cutting oils | 730 | 1, 3–A, 3–C. |
| Dehydration products, miscellaneous. | 315 | 1, 2–B, 3–A, 3–C. |
| Dentifrices | 131 | 31–A, 37, 38–B, 38–C, 38–D. |
| Deodorants (body) | 114 | 23–A, 38–B, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Detergents, household | 450 | 1, 3–A, 3–C, 23–A, 23–H, 30, 36, 39–B, 40, 40–A, 40–B, 40–C. |
| Detergents, industrial | 440 | 1, 3–A, 3–C, 23–A, 30. |
| Detonators | 574 | 1, 6–B. |
| Disinfectants | 410 | 1, 3–A, 3–B, 3–C, 23–A, 23–H, 27–A, 27–B, 30, 37, 38–B, 39–B, 40, 40–A, 40–B, 40–C. |
| Drugs and medicinal chemicals. | 575 | 1, 2–B, 2–C, 3–A, 3–C, 6–B, 12–A, 13–A, 17, 29, 30, 32. |
| Drugs, miscellaneous (processing). | 349 | 1, 2–B, 3–A, 3–C, 13–A, 23–A, 30, 35–A, 38–B. |
| Duplicating fluids | 485 | 1, 3–A, 3–C, 30. |
| Dyes and intermediates | 540 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 29, 36. |
| Dyes and intermediates (processing). | 351 | 1, 2–B, 3–A, 3–C, 12–A. |
| Dye solutions, miscellaneous. | 482 | 1, 3–A, 3–C, 23–A, 30. |
| Embalming fluids, etc | 420 | 1, 3–A, 3–C, 22, 23–A. |
| Esters, ethyl (miscellaneous). | 523 | 1, 2–B, 2–C, 6–B, 12–A, 13–A, 29, 32, 35–A. |
| Ether, ethyl | 561 | 1, 2–B, 13–A, 29, 32. |
| Ethers, miscellaneous | 562 | 1, 2–B, 13–A, 29, 32. |
| Ethyl acetate | 521 | 1, 2–B, 29, 35–A. |
| Ethylamines | 530 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 29, 36. |
| Ethyl chloride | 522 | 1, 2–B, 29, 32. |
| Ethylene dibromide | 571 | 1, 2–B, 29, 32. |
| Ethylene gas | 572 | 1, 2–B, 29, 32. |
| Explosives | 033 | 1, 2–B, 3–A, 3–C. |

USES OF SPECIALLY DENATURED ALCOHOL [1]—Continued

| Product or process | Code No. | Formulas authorized |
|---|---|---|
| External pharmaceuticals, not U.S.P. or N.F. | 210 | 23–A, 23–F, 23–H, 27, 27–A, 27–B, 33, 36, 37, 38–B, 38–F, 39–B, 40, 40–A, 40–B, 40–C. |
| External pharmaceuticals, miscellaneous, U.S.P. or N.F. | 249 | 23–A, 25, 25–A, 33, 38–B, 40–B. |
| Fluid uses, miscellaneous. | 750 | 1, 3–A, 3–C, 23–A, 30. |
| Food products, miscellaneous (processing). | 332 | 1, 2–B, 3–A, 3–C, 13–A, 23–A, 30, 32, 35–A. |
| Fuel uses, miscellaneous. | 630 | 1, 3–A, 3–C, 28–A. |
| Fuels, airplane and supplementary. | 612 | 1, 3–A, 3–C, 28–A. |
| Fuels, automobile and supplementary. | 611 | 1, 3–A, 3–C, 28–A. |
| Fuels, proprietary heating. | 620 | 1, 3–A, 3–C, 28–A. |
| Fuels, rocket and jet | 613 | 1, 3–A, 3–C, 28–A. |
| Fungicides | 410 | 1, 3–A, 3–B, 3–C, 23–A, 23–H, 27–A, 27–B, 30, 37, 38–B, 39–B, 40, 40–A, 40–B, 40–C. |
| Glandular products (processing). | 342 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |
| 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. |
| Hormones (processing) | 342 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |
| Incense | 470 | 3–A, 3–C, 22, 37, 38–B, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Inks | 052 | 1, 3–A, 3–C, 13–A, 23–A, 30, 32, 33. |
| Insecticides | 410 | 1, 3–A, 3–B, 3–C, 23–A, 23–H, 27–A, 27–B, 30, 37, 38–B, 39–B, 40, 40–A, 40–B, 40–C. |
| Iodine solutions (including U.S.P. and N.F. tinctures). | 230 | 25, 25–A. |
| Laboratory reagents (for sale). | 811 | 3–A, 3–C, 30. |
| Laboratory uses, general (own use only). | 810 | 3–A, 3–C, 30. |
| Lacquer thinners | 042 | 1, 23–A. |
| Liniments, U.S.P. or N.F. | 243 | 27, 27–B, 38–B. |
| 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. |
| Medicinal chemicals (processing). | 344 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 13–A, 17, 23–A, 30, 32, 35–A. |
| Miscellaneous chemicals (processing). | 358 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 13–A, 17, 23–A, 30, 35–A. |
| Miscellaneous products (processing). | 359 | 1, 2–B, 2–C, 3–A, 3–C, 12–A, 13–A, 17, 23–A, 30, 35–A. |
| Mouth washes | 132 | 37, 38–B, 38–C, 38–D, 38–F. |
| Organo-silicone products. | 576 | 2–B, 3–A, 3–C, 30. |

USES OF SPECIALLY DENATURED ALCOHOL [1]—Continued

| Product or process | Code No. | Formulas authorized |
|---|---|---|
| Pectin (processing) | 331 | 1, 2–B, 3–A, 3–C, 13–A, 23–A, 30, 35–A. |
| Perfume materials (processing). | 352 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 30. |
| Perfumes and perfume tinctures. | 121 | 38–B, 39, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Petroleum products | 320 | 1, 2–B, 3–A, 3–C. |
| Photoengraving dyes and solutions. | 481 | 1, 3–A, 3–C, 13–A, 30, 32. |
| Photographic chemicals (processing). | 353 | 1, 2–B, 3–A, 3–C, 13–A, 30. |
| Photographic film and emulsions. | 031 | 1, 2–B, 3–A, 3–C, 13–A, 19, 30, 32. |
| Pill and tablet manufacture. | 349 | 1, 2–B, 3–A, 3–C, 13–A, 23–A, 30, 35–A, 38–B. |
| Plastics, cellulose | 021 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 30. |
| Plastics, non-cellulose (including resins). | 022 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 30. |
| Polishes | 051 | 1, 3–A, 3–C, 30. |
| Preserving solutions | 430 | 1, 3–A, 3–C, 12–A, 13–A, 22, 23–A, 30, 32, 37, 38–B, 42, 44. |
| Product development and pilot plant (own use only). | 812 | All formulas. |
| Proprietary solvents | 041 | 1, 3–A. |
| Refrigerating uses | 740 | 1, 3–A, 3–C, 23–A, 30. |
| Resin coatings, natural | 014 | 1, 23–A. |
| Resin coatings, synthetic. | 012 | 1, 3–A, 3–C, 23–A, 30. |
| Resins, synthetic | 590 | 3–A, 3–C, 29, 30, 35–A. |
| Room deodorants | 470 | 3–A, 3–C, 22, 37, 38–B, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Rosin (processing) | 354 | 1, 3–A, 3–C, 12–A. |
| Rotogravure dyes and solutions. | 481 | 1, 3–A, 3–C, 13–A, 30, 32. |
| Rubber (latex) (processing). | 355 | 1, 3–A, 3–C. |
| Rubber, synthetic | 580 | 29, 32. |
| Rubbing alcohol | 220 | 23–H. |
| Scientific instruments | 710 | 1, 3–A, 3–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. |
| Shellac coatings | 013 | 1, 23–A. |
| Soaps, industrial | 440 | 1, 3–A, 3–C, 23–A, 30. |
| 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. |
| Sodium ethylate, anhydrous (restricted). | 524 | 2–B. |
| Sodium hydrosulfite (dehydration). | 312 | 1, 2–B, 3–A, 3–C. |
| Soldering flux | 035 | 1, 3–A, 3–C, 23–A, 30. |
| Solutions, miscellaneous. | 485 | 1, 3–A, 3–C, 23–A, 30, 40–C. |
| Solvents and thinners (other than proprietary solvents or special industrial solvents). | 042 | 1, 23–A, 30. |
| Solvents, special (restricted sale). | 043 | 1, 3–A, 3–C. |
| Stains (wood) | 053 | 1, 3–A, 3–C, 23–A, 30. |
| Sterilizing solutions | 430 | 1, 3–A, 3–C, 12–A, 13–A, 22, 23–A, 30, 32, 37, 38–B, 42, 44. |

USES OF SPECIALLY DENATURED ALCOHOL [1]—Continued

| Product or process | Code No. | Formulas authorized |
|---|---|---|
| Theater sprays | 470 | 3–A, 3–C, 22, 37, 38–B, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Tobacco sprays and flavors. | 460 | 4. |
| Toilet waters | 122 | 38–B, 39, 39–A, 39–B, 39–C, 40, 40–A, 40–B, 40–C. |
| Transparent sheetings | 032 | 1, 2–B, 3–A, 3–C, 13–A, 23–A. |
| Unclassified uses [2] | 900 | 1, 3–A, 3–C. |
| Vaccine (processing) | 343 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |
| Vinegar | 511 | 18, 29, 35–A. |
| Vitamins (processing) | 342 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |
| Xanthates | 573 | 1, 2–B, 29. |
| Yeast (processing) | 342 | 1, 2–B, 3–A, 3–C, 12–A, 13–A, 23–A, 30, 32, 35–A. |

[1] Other products or processes may be authorized under § 21.31(c).

[2] Persons desiring other formulas for this use should indicate the fact in the space provided for this purpose on TTB Form 5150.19.

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; T.D. ATF–435, 66 FR 5475, Jan. 19, 2001; T.D. ATF–442, 66 FR 11854, Mar. 1, 2001]

## Subpart G—Denaturants Authorized for Denatured Spirits

### § 21.151 List of denaturants authorized for denatured spirits.

Following is an alphabetical listing of denaturants authorized for use in denatured spirits:

DENATURANTS AUTHORIZED FOR COMPLETELY DENATURED ALCOHOL (C.D.A), SPECIALLY DENATURED ALCOHOL (S.D.A.), AND SPECIALLY DENATURED RUM (S.D.R.)

| | |
|---|---|
| Acetaldehyde | S.D.A. 29. |
| Acetone, U.S.P | S.D.A. 23–A, 23–H. |
| Acetaldol | C.D.A. 18. |
| Almond oil, bitter, N.F.X | S.D.A. 38–B. |
| Alpha Terpineol | S.D.A. 38–B. |
| Ammonia, aqueous | S.D.A. 36. |
| Ammonia solution, strong, N.F | S.D.A. 36. |
| Anethole, N.F | S.D.A. 38–B. |
| Anise oil, N.F | S.D.A. 38–B. |
| Bay oil (myrcia oil), N.F.XI | S.D.A. 23–F, 38–B, 39–D. |
| Benzaldehyde, N.F | S.D.A. 38–B. |
| Benzene | S.D.A. 2–B, 2–C, 12–A. |
| Bergamot oil, N.F.XI | S.D.A. 23–F. 38–B. |
| Bone oil (Dipple's oil) | S.D.A. 17. |
| Boric acid, N.F | S.D.A. 38–F. |
| Brucine alkaloid | S.D.A. 40. |
| Brucine sulfate, N.F.IX | S.D.A. 40. |
| *n*-Butyl alcohol | S.D.A. 44. |

DENATURANTS AUTHORIZED FOR COMPLETELY DENATURED ALCOHOL (C.D.A), SPECIALLY DENATURED ALCOHOL (S.D.A.), AND SPECIALLY DENATURED RUM (S.D.R.)—Continued

| | |
|---|---|
| *tert*-Butyl alcohol | S.D.A. 39, 39–A, 39–B, 40, 40–A, 40–B, 40–C. |
| Camphor, U.S.P | S.D.A. 27, 27–A, 38–B. |
| Caustic soda, liquid | S.D.A. 36. |
| Cedar leaf oil, U.S.P.XIII | S.D.A. 38–B. |
| Chloroform | S.D.A. 20. |
| Chlorothymol, N.F.XII | S.D.A. 38–B, 38–F. |
| Cinchonidine | S.D.A. 39–A. |
| Cinchonidine sulfate, N.F.IX | S.D.A. 39–A. |
| Cinnamic aldehyde (cinnamaldehyde), N.F.IX. | S.D.A. 38–B. |
| Cinnamon oil, N.F | S.D.A. 38–B. |
| Citronella oil, natural | S.D.A. 38–B. |
| Clove oil, N.F | S.D.A. 27–A, 38–B. |
| Coal tar, U.S.P | S.D.A. 38–B. |
| Denatonium benzoate, N.F. | S.D.A. 1, 40–B. |
| Diethyl phthalate | S.D.A. 39–B, 39–C. |
| Ethyl acetate | S.D.A. 29, 35, 35–A. |
| Ethyl ether | S.D.A. 13–A, 19, 32. |
| Eucalyptol, N.F.XII | S.D.A. 37, 38–B. |
| Eucalyptus oil, N.F | S.D.A. 38–B. |
| Eugenol, U.S.P | S.D.A. 38–B. |
| Formaldehyde solution, U.S.P | S.D.A. 22, 38–C, 38–D. |
| Gasoline | C.D.A. 18, 19; S.D.A. 28–A. |
| Gasoline, unleaded | C.D.A. 18, 19, 20; S.D.A 28–A. |
| Gentian violet | S.D.A. 33. |
| Gentian violet, U.S.P | S.D.A. 33. |
| Glycerin (Glycerol), U.S.P | S.D.A. 31–A. |
| Green soap, U.S.P | S.D.A. 27–B. |
| Guaiacol, N.F.X | S.D.A. 38–B. |
| Heptane | C.D.A. 18, 19; S.D.A. 2–B, 28–A. |
| Hydrochloric acid, N.F | S.D.A. 38–F. |
| Iodine, U.S.P | S.D.A. 25, 25–A. |
| Isopropyl alcohol | S.D.A. 3–C. |
| Kerosene | C.D.A. 18, 19, 20. |
| Kerosene (deodorized) | C.D.A. 18, 19, 20. |
| Lavender oil, N.F | S.D.A. 27–B, 38–B. |
| Menthol, U.S.P | S.D.A. 37, 38–B, 38–C, 38–D, 38–F. |
| Mercuric iodide, red, N.F.XI | S.D.A. 42. |
| Methyl alcohol | S.D.A. 1, 3–A, 30. |
| Methylene blue, U.S.P | S.D.A. 4; S.D.R. 4. |
| Methyl isobutyl ketone | C.D.A. 18, 19; S.D.A. 1, 23–H. |
| Methyl *n*-butyl ketone | C.D.A. 18, 19; S.D.A. 1. |
| Methyl salicylate, N.F | S.D.A. 38–B, 46. |
| Mustard oil, volatile (allyl isothiocyanate), U.S.P.XII. | S.D.A. 38–B. |
| Nicotine solution | S.D.A. 4; S.D.R. 4. |
| Nitropropane, mixed isomers of | C.D.A. 18, 19; S.D.A. 1. |
| Peppermint oil, N.F | S.D.A. 38–B. |
| Phenol, U.S.P | S.D.A. 38–B, 46. |
| Phenyl mercuric benzoate | S.D.A. 42. |
| Phenyl mercuric chloride, N.F.IX | S.D.A. 42. |
| Phenyl mercuric nitrate, N.F | S.D.A. 42. |
| Phenyl salicylate (salol), N.F.XI | S.D.A. 38–B. |
| Pine needle oil, dwarf, N.F. | S.D.A. 38–B. |
| Pine oil, N.F. | S.D.A. 38–B. |
| Pine tar, U.S.P | S.D.A. 3–B. |
| Polysorbate 80, N.F | S.D.A. 38–F. |
| Potassium iodide, U.S.P | S.D.A. 25, 25–A, 42. |
| Pyridine bases | S.D.A. 6–B. |
| Pyronate | C.D.A. 18. |
| Quassia, fluid extract, N.F.VII | S.D.A. 39. |
| Quassin | S.D.A. 40. |
| Quinine, N.F.X | S.D.A. 39–A. |
| Quinine bisulfate, N.F.XI | S.D.A. 39–A, 39–D. |

DENATURANTS AUTHORIZED FOR COMPLETELY DENATURED ALCOHOL (C.D.A), SPECIALLY DENATURED ALCOHOL (S.D.A.), AND SPECIALLY DENATURED RUM (S.D.R.)—Continued

| | |
|---|---|
| Quinine dihydrochloride, N.F.XI | S.D.A. 39–A. |
| Quinine sulfate, U.S.P | S.D.A. 39–D. |
| Resorcinol (Resorcin), U.S.P | S.D.A. 23–F. |
| Rosemary oil, N.F. XII | S.D.A. 27, 38–B. |
| Rubber hydrocarbon solvent | C.D.A. 18, 19, 20; S.D.A. 2–B, 2–C, 28–A. |
| Safrole | S.D.A. 38–B. |
| Salicylic acid, U.S.P | S.D.A. 23–F, 39. |
| Sassafras oil, N.F.XI | S.D.A. 38–B. |
| Shellac (refined) | S.D.A. 45. |
| Soap, hard, N.F.XI | S.D.A. 31–A. |
| Sodium iodide, U.S.P | S.D.A. 25, 25–A. |
| Sodium, metallic | S.D.A. 2–C. |
| Sodium salicylate, U.S.P | S.D.A. 39, 39–D. |
| Spearmint oil, N.F | S.D.A. 38–B. |
| Spearmint oil, terpeneless | S.D.A. 38–B. |
| Spike lavender oil, natural | S.D.A. 38–B. |
| Storax, U.S.P | S.D.A. 38–B. |
| Sucrose octaacetate | S.D.A. 40–A. |
| Thimerosal, U.S.P | S.D.A. 42. |
| Thyme oil, N.F.XII | S.D.A. 38–B. |
| Thymol, N.F | S.D.A. 37, 38–B, 38–F. |
| Tolu balsam, U.S.P | S.D.A. 38–B. |
| Toluene | S.D.A. 2–B, 2–C, 12–A. |
| Turpentine oil, N.F.XI | S.D.A. 38–B. |
| Vinegar | S.D.A. 18. |
| Zinc chloride, U.S.P | S.D.A. 38–F. |

[T.D. ATF–133, 48 FR 24673, June 2, 1983, as amended by T.D. ATF–442, 66 FR 12854, Mar. 1, 2001]

## Subpart H—Weights and Specific Gravities of Specially Denatured Alcohol

### § 21.161 Weights and specific gravities of specially denatured alcohol.

The weight of one gallon of each formula of specially denatured alcohol at 15.56 °C. (60 °F.) is as listed in this section. The specific gravity of each formula of specially denatured alcohol at 15.56 °C./15.56 °C. (60 °F./60 °F.) in air is as listed in this section. (Weight of 1 gallon of water at 15.56 °C. (60 °F.) is 8.32823 pounds in air.)

WEIGHTS AND SPECIFIC GRAVITIES OF SPECIALLY DENATURED ALCOHOL [1]

[Slight deviations from this table may occur due to variations in specific gravities of authorized denaturants. Values for 190 proof determined experimentally in air. Other values calculated from these gravities.]

| S.D.A. Formula No. | Finished formula (gals) | 190 proof | | 192 proof | | 200 proof | |
|---|---|---|---|---|---|---|---|
| | | Wt./gal. in air (lbs) | Sp. gr. in air | Wt./gal. in air (lbs) | Sp. gr. in air | Wt./gal. in air (lbs) | Sp. gr. in air |
| 1 | 104.0 | 6.788 | 0.8151 | 6.756 | 0.8112 | 6.611 | 0.7938 |
| 2–B | 100.5 | 6.795 | .8159 | 6.762 | .8119 | 6.612 | .7939 |
| 2–C | 99.5 | ..... | ..... | ..... | ..... | 6.959 | .8356 |
| 3–A | 105.0 | 6.787 | .8149 | 6.755 | .8111 | 6.611 | .7938 |
| 3–B | 101.0 | 6.810 | .8177 | 6.777 | .8137 | 6.627 | .7957 |
| 3–C | 105.0 | 6.784 | .8146 | 6.752 | .8107 | 6.608 | .7935 |
| 4 | 100.8 | 6.823 | .8193 | 6.791 | .8154 | 6.640 | .7973 |
| 6–B | 100.5 | 6.801 | .8166 | 6.768 | .8127 | 6.618 | .7947 |
| 12–A | 105.0 | 6.820 | .8189 | 6.789 | .8152 | 6.645 | .7979 |
| 13–A | 109.7 | 6.740 | .8093 | 6.710 | .8057 | 6.572 | .7891 |
| 17 | 100.05 | 6.795 | .8159 | 6.762 | .8119 | 6.611 | .7938 |
| 18 | 195.4 | 7.802 | .9368 | 7.785 | .9348 | 7.708 | .9255 |
| 19 | 197.9 | 6.468 | .7766 | 6.452 | .7747 | 6.375 | .7655 |
| 20 | 104.9 | 7.062 | .8480 | 7.030 | .8441 | 6.886 | .8268 |
| 22 | 109.5 | 7.037 | .8450 | 7.007 | .8414 | 6.868 | .8247 |
| 23–A | 107.9 | 6.788 | .8151 | 6.758 | .8115 | 6.619 | .7948 |
| 23–F | 101.5 | 6.808 | .8175 | 6.776 | .8136 | 6.627 | .7957 |
| 23–H | 109.45 | 6.785 | .8147 | 6.755 | .8111 | 6.617 | .7945 |
| 25 | 100.9 | 7.080 | .8501 | 7.047 | .8462 | 6.897 | .8282 |
| 25 [2] | 100.9 | 7.083 | .8505 | 7.050 | .8465 | 6.900 | .8285 |
| 25–A | 102.5 | 7.119 | .8548 | 7.087 | .8510 | 6.939 | .8332 |
| 25–A [2] | 102.5 | 7.117 | .8546 | 7.085 | .8507 | 6.938 | .8331 |
| 27 | 104.7 | 6.846 | .8220 | 6.814 | .8182 | 6.670 | .8009 |
| 27–A | 105.2 | 6.867 | .8245 | 6.835 | .8207 | 6.692 | .8035 |
| 27–B | 112.0 | 7.027 | .8438 | 6.998 | .8403 | 6.862 | .8239 |
| 28–A | 101.0 | 6.786 | .8148 | 6.753 | .8109 | 6.603 | .7929 |
| 29 | 100.76 | 6.808 | .8175 | 6.775 | .8135 | 6.624 | .7954 |
| 30 | 110.0 | 6.785 | .8147 | 6.755 | .8111 | 6.617 | .7945 |
| 31–A | 111.5 | 7.167 | .8606 | 7.138 | .8571 | 7.002 | .8408 |
| 32 | 104.8 | 6.769 | .8128 | 6.737 | .8089 | 6.593 | .7916 |
| 33 | 102.9 | 6.893 | .8277 | 6.861 | .8238 | 6.714 | .8062 |
| 35 [3] | 135.0 | 6.956 | .8352 | 6.933 | .8325 | 6.820 | .8189 |
| 35 [4] | 129.75 | 6.963 | .8361 | 6.937 | .8330 | 6.820 | .8189 |
| 35–A [3] | 105.0 | 6.817 | .8185 | 6.785 | .8147 | 6.641 | .7974 |

WEIGHTS AND SPECIFIC GRAVITIES OF SPECIALLY DENATURED ALCOHOL [1]—Continued

[Slight deviations from this table may occur due to variations in specific gravities of authorized denaturants. Values for 190 proof determined experimentally in air. Other values calculated from these gravities.]

| S.D.A. Formula No. | Finished formula (gals) | 190 proof | | 192 proof | | 200 proof | |
|---|---|---|---|---|---|---|---|
| | | Wt./gal. in air (lbs) | Sp. gr. in air | Wt./gal. in air (lbs) | Sp. gr. in air | Wt./gal. in air (lbs) | Sp. gr. in air |
| 35–A [4] | 104.25 | 6.826 | .8196 | 6.794 | .8158 | 6.649 | .7984 |
| 36 | 102.7 | 6.837 | .8209 | 6.804 | .8170 | 6.657 | .7993 |
| 37 | 100.9 | 6.794 | .8158 | 6.762 | .8119 | 6.612 | .7939 |
| 38–B | 101.3 | 6.804 | .8170 | 6.772 | .8131 | 6.622 | .7951 |
| 38–C | 102.6 | 6.832 | .8203 | 6.800 | .8165 | 6.652 | .7987 |
| 38–D | 102.7 | 6.863 | .8241 | 6.830 | .8201 | 6.682 | .8023 |
| 38–F | 100.9 | 6.828 | .8199 | 6.796 | .8160 | 6.646 | .7980 |
| 39 | 102.0 | 6.867 | .8245 | 6.834 | .8206 | 6.686 | .8028 |
| 39–A | 100.5 | 6.810 | .8177 | 6.777 | .8137 | 6.627 | .7957 |
| 39–B | 102.7 | 6.857 | .8233 | 6.825 | .8195 | 6.677 | .8017 |
| 39–C | 101.0 | 6.819 | .8188 | 6.792 | .8155 | 6.642 | .7975 |
| 39–D | 101.3 | 6.819 | .8188 | 6.787 | .8149 | 6.637 | .7969 |
| 40 | 100.1 | 6.795 | .8159 | 6.762 | .8119 | 6.611 | .7938 |
| 40–A | 100.2 | 6.798 | .8163 | 6.765 | .8123 | 6.613 | .7941 |
| 40–B | 100.1 | 6.794 | .8158 | 6.761 | .8118 | 6.610 | .7937 |
| 40–C | 103.0 | 6.788 | .8151 | 6.756 | .8112 | 6.609 | .7936 |
| 42 | 100.0 | 6.797 | .8161 | 6.764 | .8122 | 6.613 | .7941 |
| 44 | 110.0 | 6.790 | .8153 | 6.760 | .8117 | 6.622 | .7951 |
| 45 | 129.8 | 7.545 | .9060 | 7.520 | .9030 | 7.403 | .8889 |
| 46 | 100.1 | 6.805 | .8171 | 6.772 | .8131 | 6.621 | .7950 |

[1] Where alternate denaturants are permitted, the above weights are based on the first denaturant or combination listed in the formula.
[2] With sodium iodide.
[3] Calculated on the basis of 85 percent ethyl acetate.
[4] Calculated on the basis of 100 percent ethyl acetate.

# PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

## Subpart A—Scope

Sec.
22.1 General.
22.2 Territorial extent.
22.3 Related regulations.

## Subpart B—Definitions

22.11 Meaning of terms.

## Subpart C—Administrative Provisions

AUTHORITIES

22.20 Delegations of the Administrator.
22.21 Forms prescribed.
22.22 Alternate methods or procedures; and emergency variations from requirements.
22.23 Allowance of claims.
22.24 Permits.
22.25 Right of entry and examination.
22.26 Detention of containers.

LIABILITY FOR TAX

22.31 Persons liable for tax.

DESTRUCTION OF MARKS AND BRANDS

22.33 Time of destruction of marks and brands.

DOCUMENT REQUIREMENTS

22.35 Execution under penalties of perjury.
22.36 Filing of qualifying documents.

## Subpart Ca—Special (Occupational) Taxes

22.37 Liability for special tax.
22.38 Special tax returns.
22.38a Employer identification number.

SPECIAL TAX STAMPS

22.39 Issuance, distribution, and examination of special tax stamps.
22.40 Changes in special tax stamps.

## Subpart D—Qualification

APPLICATION FOR PERMIT, FORM 5150.22

22.41 Application for industrial alcohol user permit.
22.42 Data for application, Form 5150.22.
22.43 Exceptions to application requirements.
22.44 Disapproval of application.
22.45 Organizational documents.

INDUSTRIAL ALCOHOL USER PERMIT, FORM 5150.9

22.48 Conditions of permits.
22.49 Duration of permits.
22.50 Correction of permits.
22.51 Suspension or revocation of permits.
22.52 Rules of practice in permit proceedings.

22.53 Powers of attorney.
22.54 Photocopying of permits.
22.55 Posting of permits.

CHANGES AFTER ORIGINAL QUALIFICATION

22.57 Changes affecting applications and permits.
22.58 Automatic termination of permits.
22.59 Adoption of documents by a fiduciary.
22.60 Continuing partnerships.
22.61 Change in name of permittee.
22.62 Change in trade name.
22.63 Change in location.
22.64 Return of permits.

REGISTRY OF STILLS

22.66 Registry of stills.

PERMANENT DISCONTINUANCE OF USE OF TAX-FREE ALCOHOL

22.68 Notice of permanent discontinuance.

Subpart E [Reserved]

Subpart F—Premises and Equipment

22.91 Premises.
22.92 Storage facilities.
22.93 Equipment for recovery and restoration of tax-free alcohol.

Subpart G—Use of Tax-Free Alcohol

22.101 Authorized uses.
22.102 Prohibited uses.
22.103 States and the District of Columbia.
22.104 Educational organizations, colleges of learning, and scientific universities.
22.105 Hospitals, blood banks, and sanitariums.
22.106 Clinics.
22.107 Pathological laboratories.
22.108 Other laboratories.

Subpart H—Withdrawal and Receipt of Tax-Free Alcohol

22.111 Withdrawals under permit.
22.112 Regulation of withdrawals.
22.113 Receipt of tax-free alcohol.
22.114 Alcohol received from the General Services Administration.

Subpart I—Losses

22.121 Liability and responsibility of carriers.
22.122 Losses in transit.
22.123 Losses on premises.
22.124 Incomplete shipments.
22.125 Claims.

Subpart J—Recovery of Tax-Free Alcohol

22.131 General.
22.132 Deposit in storage tanks.
22.133 Shipment for redistillation.
22.134 Records of shipment.

Subpart K—Destruction

22.141 General.
22.142 Destruction.

Subpart L—Return, Reconsignment and Disposition of Tax-Free or Recovered Alcohol

22.151 Return.
22.152 Reconsignment in transit.
22.153 Disposition after revocation of permit.
22.154 Disposition on permanent discontinuance of use.
22.155 Emergency disposition to another permittee.

Subpart M—Records of Transactions

22.161 Records.
22.162 Inventories.
22.163 Time for making entries.
22.164 Filing and retention of records.
22.165 Photographic copies of records.

Subpart N—Use of Tax-Free Spirits by the United States or Government Agency

22.171 General.
22.172 Application and permit, Form 5150.33.
22.173 Procurement of tax-free spirits.
22.174 Receipt of shipment.
22.175 Discontinuance of use.
22.176 Disposition of excess spirits.

AUTHORITY: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5214, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

SOURCE: T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 22 appear by T.D. ATF–435, 66 FR 5476, Jan. 19, 2001 and T.D. ATF–463 and T.D. ATF–462, 66 FR 42733, 42736, Aug. 15, 2001.

## 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 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 27—Importation of Distilled Spirits, Wines and Beer.
27 CFR Part 29—Stills and Miscellaneous Regulations.
27 CFR Part 30—Gauging Manual.
27 CFR Part 71—Rules of Practice in Permit Proceedings.
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.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–207, 50 FR 23682, June 5, 1985; T.D. ATF–459, 66 FR 38550, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002]

## 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.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*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.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.22, Delegation of the Administrator's Authorities in 27 CFR Part 22, Distribution and Use of Tax-Free Alcohol.

*CFR.* The Code of Federal Regulations.

*Clinic.* When used in this part the term includes veterinary clinics.

*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.

*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.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5475, Jan. 19, 2001; T.D. TTB–44, 71 FR 16937, Apr. 4, 2006]

## Subpart C—Administrative Provisions

AUTHORITIES

### § 22.20 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.22, Delegation of the Administrator's Authorities in 27 CFR Part 22, Distribution and Use of Tax-Free Alcohol. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16937, Apr. 4, 2006]

### § 22.21 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including 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. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–249, 52 FR 5961, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF–435, 66 FR 5476, Jan. 19, 2001; T.D. ATF–443, 66 FR 13015, Mar. 2, 2001; T.D. TTB–44, 71 FR 16937, Apr. 4, 2006]

### § 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 appropriate TTB officer, 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 appropriate TTB officer. The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by appropriate TTB officer.* The appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB

officer 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 appropriate TTB officer 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 appropriate TTB officer*. The appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer may withdraw approval for an alternate method or procedure or an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the appropriate TTB officer 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))

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5476, Jan. 19, 2001]

### § 22.23 Allowance of claims.

The appropriate TTB officer is authorized to allow claims for losses of tax-free alcohol.

### § 22.24 Permits.

(a) The appropriate TTB officer 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 appropriate TTB officer shall issue the permit to withdraw and use tax-free alcohol, Form 5150.9 required under this part.

### § 22.25 Right of entry and examination.

An appropriate TTB 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 appropriate TTB officer may also inspect and take samples of tax-free alcohol to which those records relate.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985. Redesignated by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 22.26 Detention of containers.

(a) *Summary detention*. An appropriate TTB officer may detain any container containing, or supposed to contain, alcohol when the appropriate TTB officer believes the alcohol was withdrawn, sold, transported, or used in violation of law of this part. The appropriate TTB 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 appropriate TTB officer. 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))

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985. Redesignated by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

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 appropriate TTB officer during business hours.

## Subpart Ca—Special (Occupational) Taxes

SOURCE: T.D. ATF–271, 53 FR 17545, May 17, 1988, unless otherwise noted.

### § 22.37 Liability for special tax.

(a) *Tax-free alcohol permittee.* Except as otherwise provided in this section, every person who is required to hold a permit under 26 U.S.C. 5271 to procure, use, sell, and/or recover alcohol free of tax for nonbeverage purposes shall pay a special (occupational) tax at the rate of $250 per year. A separate tax shall be paid for each tax-free alcohol permit which the permittee holds, and permits issued under this part shall not be valid unless special tax is paid. The tax shall be paid on or before the date of commencing the business of a tax-free alcohol permittee, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a permittee engaged in nonbeverage tax-free distilled spirits operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* Special (occupational) tax liability is incurred at each place of business for which a permit under subpart D of this part to procure, use, and/or recover distilled spirits free of tax has been issued. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(d) *Exception for United States.* Agencies and instrumentalities of the United States are not required to pay special tax under this subpart.

(e) *Exception for certain educational institutions.* (1) On and after July 1, 1989, a scientific university, college of learning, or institution of scientific research as specified in § 22.104, which holds a permit to procure and use distilled spirits free of tax under this part, is not required to pay special tax under this subpart if—

(i) The university, college, or institution procures less than 25 gallons of tax free spirits per calendar year; and

(ii) Such spirits are procured for use exclusively for experimental or research use and not for consumption (other than organoleptic tests) or sale.

(2) A scientific university, college of learning, or institution of scientific research, which holds a permit under this part, and which does not operate as described in paragraphs (e)(1) (i) and (ii) of this section during any calendar year, shall pay special tax as provided in paragraph (a) of this section for the special tax year (July 1 through June 30) commencing during that calendar year.

(26 U.S.C. 5143, 5276)

[T.D. ATF–271, 53 FR 17545, May 17, 1988, as amended by T.D. ATF–285, 53 FR 12610, Mar. 28, 1989; T.D. ATF–337, 58 FR 19061, Apr. 12, 1993]

### § 22.38 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) *Preparation of TTB Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 22.38a).

(4) The exact location of the place of business, by name and number of building or street, of if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of corporate taxpayer) for the period specified on § 22.164.

(d) *Signing of TTB Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as ''individual owner,'' ''member of firm,'' or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7100)

### § 22.38a Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

## SPECIAL TAX STAMPS

### § 22.39 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 22.38(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5143, 5146, 6806)

### § 22.40 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the permittee shall file an amended special tax return, as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The permittee shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a tax-free alcohol operation, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on TTB Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the permittee shall, within 30 days after the change, file with TTB an amended special tax return covering the new location. The permittee shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the permittee does not file the amended return within 30 days, he or she is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

## 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 appropriate TTB officer. 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 appropriate TTB officer may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity the appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB officer 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, where the appropriate TTB officer has determined that the waiver of such requirements does not pose any jeopardy to the revenue or a hindrance of the effective administration of this part.

(b) The waiver provided for in this section will terminate for a permittee, other than States or political subdivisions thereof or the District of Columbia, when the permittee files an application to amend the permit and the appropriate TTB officer determines that the conditions justifying the waiver no longer exist. In this case, the permittee will furnish the information in respect

to the previously waived items, as provided in § 22.57(a)(2).

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 22.44 Disapproval of application.

The appropriate TTB officer may, in accordance with part 71 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 appropriate TTB officer 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 must be submitted to the appropriate TTB officer 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.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5476, Jan. 19, 2001]

## INDUSTRIAL ALCOHOL USER PERMIT, FORM 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 appropriate TTB officer for correction.

### § 22.51 Suspension or revocation of permits.

The appropriate TTB officer may institute proceedings under part 71 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 71 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 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 appropriate TTB officer 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 will—

(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 appropriate TTB officer 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 appropriate TTB officer) 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 appropriate TTB officer 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)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer. 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 appropriate TTB officer 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 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.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 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) *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).

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

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 22.61 Change in name of permittee.

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 appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0335)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0335)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 22.63 Change in location.

When there is to be a change in location, 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 appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512–0335)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–435, 66 FR 5476, Jan. 19, 2001; T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 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 appropriate TTB officer for cancellation.

## REGISTRY OF STILLS

### § 22.66 Registry of stills.

The provisions of subpart C of part 29 of this chapter are applicable to stills on the premises of a permittee used for distilling. As provided in § 29.55, the listing of a still in the permit application (Form 5150.22), and approval of the application, constitutes registration of the still.

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

[T.D. ATF–207, 50 FR 23682, June 5, 1985]

PERMANENT DISCONTINUANCE OF USE OF TAX-FREE ALCOHOL

### § 22.68 Notice of permanent discontinuance.

A permittee who permanently discontinues the use of tax-free alcohol shall file a written notice with the appropriate TTB officer 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.

(Approved by the Office of Management and Budget under control number 1512–0335)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

## Subpart E [Reserved]

## 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.

## Subpart 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 appropriate TTB officer, 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 appropriate TTB officer, 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 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, unless the appropriate TTB officer authorizes the shipment.

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

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer 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 appropriate TTB 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 appropriate TTB officer 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 appropriate TTB officer 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 date 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), 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 appropriate TTB officer 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 appropriate TTB officer at least 7 days prior to the proposed date of destruction, or

(2) Furnishing the notice to an appropriate TTB officer at the premises who may supervise the destruction or transmit the notice to the appropriate TTB officer.

(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 appropriate TTB officer has not supervised the destruction, or the appropriate TTB officer 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 TTB 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) *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)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–443, 66 FR 13015, Mar. 2, 2001]

### § 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 appropriate TTB officer, 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 appropriate TTB officer, 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 appropriate TTB officer 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 appropriate TTB 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 appropriate TTB 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 appropriate TTB officer 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 appropriate TTB officer, 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 appropriate TTB officer. Payment of special (occupational) tax and filing of a bond are not required for any Governmental agency of the United States to procure tax-free spirits.

(b) The provisions of subpart M of 27 CFR part 27 cover the withdrawal of imported spirits, free of tax, for use of the United States or any of its Government agencies.

(26 U.S.C. 5214, 5271, 5272, 5276)

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF–285, 54 FR 12610, Mar. 28, 1989; T.D. ATF–479, 67 FR 30798, May 8, 2002]

### § 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. 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 authorizing 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.

[T.D. ATF–199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 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 appropriate TTB officer.

### § 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 appropriate TTB officer 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 appropriate TTB officer. Tax-free spirits may not be disposed of to the general public.

# PART 24—WINE

## Subpart A—Scope

Sec.
24.1 General.
24.2 Territorial extent.
24.4 Related regulations.

## Subpart B—Definitions

24.10 Meaning of terms.

## Subpart C—Administrative and Miscellaneous Provisions

AUTHORITIES

24.19 Delegations of the Administrator.
24.20 Forms prescribed.
24.21 Modified forms.
24.22 Alternate method or procedure.
24.25 Emergency variations from requirements.
24.26 Authority to approve.
24.27 Segregation of operations.
24.28 Installation of meters, tanks, and other apparatus.
24.29 Claims.
24.30 Supervision.
24.31 Submission of forms and reports.
24.32 Records.
24.35 Right of entry and examination.
24.36 Instruments and measuring devices.
24.37 Samples for the United States.

FACILITIES AND ASSISTANCE

24.40 Gauging and measuring.
24.41 Office facilities.

EMPLOYER IDENTIFICATION NUMBER

24.45 Use on returns.
24.46 Application.
24.47 Execution of IRS Form SS–4.

SPECIAL (OCCUPATIONAL) TAXES

24.50 Payment of special (occupational) tax.
24.51 Rates of special (occupational) tax.
24.52 Exemption from special (occupational) tax.
24.53 Special (occupational) tax returns.
24.54 Special (occupational) tax stamps.
24.55 Changes in special (occupational) tax stamps.

ASSESSMENTS

24.60 General.
24.61 Assessment of tax.
24.62 Notice.

CLAIMS

24.65 Claims for wine or spirits lost or destroyed in bond.
24.66 Claims on wine returned to bond.
24.67 Other claims.
24.68 Insurance coverage.
24.69 Filing of claims.
24.70 Claims for credit of tax.

TAX EXEMPT WINE

24.75 Wine for personal or family use.
24.76 Tax exempt cider.
24.77 Experimental wine.

FORMULAS

24.80 General.
24.81 Filing of formulas.
24.82 Samples.

ESSENCES

24.85 Essences.
24.86 Essences produced on wine premises.
24.87 Essences made elsewhere.

CONVEYANCE OF WINE OR SPIRITS ON WINE PREMISES

24.90 Taxpaid products.
24.91 Conveyance of untaxpaid wine or spirits.
24.92 Products in customs custody.

SAMPLES

24.95 General.
24.96 Use off premises.
24.97 Use on premises.

## Subpart D—Establishment and Operations

24.100 General.

PREMISES AND OPERATIONS

24.101 Bonded wine premises.
24.102 Premises established for taxpaid wine operations.
24.103 Other operations.

APPLICATION

24.105 General.
24.106 Basic permit requirements.
24.107 Designation as a bonded winery.
24.108 Bonded wine warehouse application.
24.109 Data for application.
24.110 Organizational documents.
24.111 Description of premises.
24.112 Name of proprietor and trade names.
24.113 Description of volatile fruit-flavor concentrate operations.
24.114 Registry of stills.
24.115 Registry number.
24.116 Powers of attorney.
24.117 Maintenance of application file.

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

24.120 Amended application.
24.121 Changes affecting permits.
24.122 Change in name of proprietor or trade name.
24.123 Change in stockholders.
24.124 Change in corporate officers.
24.125 Change in proprietorship.

24.126 Change in proprietorship involving a bonded wine warehouse.
24.127 Adoption of formulas.
24.128 Continuing partnerships.
24.129 Change in location.
24.130 Change in volatile fruit-flavor concentrate operations.
24.131 Change in building construction and use of premises.

ALTERNATION

24.135 Wine premises alternation.
24.136 Procedure for alternating proprietors.
24.137 Alternate use of the wine premises for customs purposes.

PERMANENT DISCONTINUANCE OF OPERATIONS

24.140 Notice.
24.141 Bonded wine warehouse.

BONDS AND CONSENTS OF SURETY

24.145 General requirements.
24.146 Bonds.
24.147 Operations bond or unit bond.
24.148 Penal sums of bonds.
24.149 Corporate surety.
24.150 Powers of attorney.
24.151 Deposit of collateral security.
24.152 Consents of surety.
24.153 Strengthening bonds.
24.154 New or superseding bonds.
24.155 Disapproval and appeal from disapproval.
24.156 Termination of bonds.
24.157 Application by surety for relief from bond.
24.158 Extent of relief.
24.159 Release of collateral security.

Subpart E—Construction and Equipment

24.165 Premises.
24.166 Buildings or rooms.
24.167 Tanks.
24.168 Identification of tanks.
24.169 Pipelines.
24.170 Measuring devices and testing instruments.

Subpart F—Production of Wine

24.175 General.
24.176 Crushing and fermentation.
24.177 Chaptalization (Brix adjustment).
24.178 Amelioration.
24.179 Sweetening.
24.180 Use of concentrated and unconcentrated fruit juice.
24.181 Use of sugar.
24.182 Use of acid to correct natural deficiencies.
24.183 Use of distillates containing aldehydes.
24.184 Use of volatile fruit-flavor concentrate.

Subpart G—Production of Effervescent Wine

24.190 General.
24.191 Segregation of operations.
24.192 Process and materials.
24.193 Conversion into still wine.

Subpart H—Production of Special Natural Wine

24.195 General.
24.196 Formula required.
24.197 Production by fermentation.
24.198 Blending.

Subpart I—Production of Agricultural Wine

24.200 General.
24.201 Formula required.
24.202 Dried fruit.
24.203 Honey wine.
24.204 Other agricultural products.

Subpart J—Production of Other Than Standard Wine

24.210 Classes of wine other than standard wine.
24.211 Formula required.
24.212 High fermentation wine.
24.213 Heavy bodied blending wine.
24.214 Spanish type blending sherry.
24.215 Wine or wine products not for beverage use.
24.216 Distilling material.
24.217 Vinegar stock.
24.218 Other wine.

Subpart K—Spirits

24.225 General.
24.226 Receipt or transfer of spirits.
24.227 Transfer of spirits by pipeline for immediate use.
24.228 Transfer of spirits by pipeline to a spirits storage tank.
24.229 Tank car and tank truck requirements.
24.230 Examination of tank car or tank truck.
24.231 Receipt of spirits in sealed bulk containers.
24.232 Gauge of spirits.
24.233 Addition of spirits to wine.
24.234 Other use of spirits.
24.235 Taxpayment or destruction of spirits.
24.236 Losses of spirits.
24.237 Spirits added to juice or concentrated fruit juice.

Subpart L—Storage, Treatment and Finishing of Wine

24.240 General.
24.241 Decolorizing juice or wine.
24.242 Authority to use greater quantities of decolorizing material in juice or wine.

24.243 Filtering aids.
24.244 Use of acid to stabilize standard wine.
24.245 Use of carbon dioxide in still wine.
24.246 Materials authorized for the treatment of wine and juice.
24.247 Materials authorized for the treatment of distilling material.
24.248 Processes authorized for the treatment of wine, juice, and distilling material.
24.249 Experimentation with new treating material or process.
24.250 Application for use of new treating material or process.

BOTTLING, PACKING, AND LABELING OF WINE

24.255 Bottling or packing wine.
24.256 Bottle aging wine.
24.257 Labeling wine containers.
24.258 Certificates of approval or exemption.
24.259 Marks.
24.260 Serial numbers or filling date.

Subpart M—Losses of Wine

24.265 Losses by theft.
24.266 Inventory losses.
24.267 Losses in transit.
24.268 Losses by fire or other casualty.

Subpart N—Removal, Return and Receipt of Wine

TAXPAID REMOVALS

24.270 Determination of tax.
24.271 Payment of tax by return with remittance.
24.272 Payment of tax by electronic fund transfer.
24.273 Exception to filing semimonthly or quarterly tax returns.
24.274 Failure to timely pay tax or file a return.
24.275 Prepayment of tax.
24.276 Prepayment of tax; proprietor in default.
24.277 Date of mailing or delivering of returns.
24.278 Tax credit for certain small domestic producers.
24.279 Tax adjustments related to wine credit.

TRANSFER OF WINE IN BOND

24.280 General.
24.281 Consignor premises.
24.282 Multiple transfers.
24.283 Reconsignment.
24.284 Consignee premises.

REMOVALS WITHOUT PAYMENT OF TAX

24.290 Removal of wine as distilling material.
24.291 Removal of wine for vinegar production.
24.292 Exported wine.
24.293 Wine for Government use.
24.294 Destruction of wine.

RETURN OF UNMERCHANTABLE WINE TO BOND

24.295 Return of unmerchantable wine to bond.

TAXPAID WINE OPERATIONS

24.296 Taxpaid wine operations.

Subpart O—Records and Reports

24.300 General.
24.301 Bulk still wine record.
24.302 Effervescent wine record.
24.303 Formula wine record.
24.304 Chaptalization (Brix adjustment) and amelioration record.
24.305 Sweetening record.
24.306 Distilling material or vinegar stock record.
24.307 Nonbeverage wine record.
24.308 Bottled or packed wine record.
24.309 Transfer in bond record.
24.310 Taxpaid removals from bond record.
24.311 Taxpaid wine records.
24.312 Unmerchantable wine returned to bond record.
24.313 Inventory record.
24.314 Label information record.
24.315 Materials received and used record.
24.316 Spirits record.
24.317 Sugar record.
24.318 Acid record.
24.319 Carbon dioxide record.
24.320 Chemical record.
24.321 Decolorizing material record.
24.322 Allied products record.
24.323 Excise Tax Return form.

AUTHORITY: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5148, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: T.D. ATF–299, 55 FR 24989, June 19, 1990, unless otherwise noted.

## Subpart A—Scope

### § 24.1 General.

The regulations in this part relate to the establishment and operation (including incidental activities) of wine premises and to the treatment and classification of wine.

### § 24.2 Territorial extent.

This part applies to the several States of the United States and the District of Columbia. (Sec. 201, Pub. L.

85–859, 72 Stat. 1337, as amended (26 U.S.C. 5065))

### § 24.4 Related regulations.

Regulations related to this part are listed below:

26 CFR Part 301—Procedure and Administration.
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 4—Labeling and Advertising of Wine.
27 CFR Part 9—American Viticultural Areas.
27 CFR Part 16—Alcoholic Beverage Health Warning Statement
27 CFR Part 18—Production of Volatile Fruit-Flavor Concentrates.
27 CFR Part 19—Distilled Spirits Plants.
27 CFR Part 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 27—Importation of Distilled Spirits, Wines and Beer.
27 CFR Part 28—Exportation of Alcohol.
27 CFR Part 29—Stills and Miscellaneous Regulations.
27 CFR Part 30—Gauging Manual.
27 CFR Part 31—Alcohol Beverage Dealers.
27 CFR Part 71—Rules of Practice in Permit Proceedings.
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.

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–459, 66 FR 38550, July 25, 2001; T.D. ATF–463, 66 FR 42734, Aug. 15, 2001; T.D. ATF–462, 66 FR 42736, Aug. 15, 2001; T.D. ATF–470, 66 FR 58944, Nov. 26, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004; T.D. TTB–25, 70 FR 19882, Apr. 15, 2005]

## Subpart B—Definitions

### § 24.10 Meaning of terms.

When used in this part and in the forms prescribed under this part, terms will have the meanings ascribed in this section. Words in the plural form also include the singular, and *vice versa*, and words indicating the masculine gender also include the feminine. The terms ''includes'' and ''including'' do not exclude items not enumerated which are in the same general class. The definitions in this section do not supersede or affect the requirements of part 4 of this chapter, relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act (49 Stat. 981; 27 U.S.C. 205).

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Affiliated persons or firms.* When used in connection with ''own production'', one or more bonded wine premises proprietors associated as members of the same farm cooperative, or any one or more bonded wine premises proprietors affiliated within the meaning of section 117(a)(5) of the Federal Alcohol Administration Act, as amended (49 Stat. 989; 27 U.S.C. 211).

*Agricultural wine.* Wine made from suitable agricultural products other than the juice of grapes, berries, or other fruits.

*Allied products.* Commercial fruit products and by-products (including volatile fruit-flavor concentrate) not taxable as wine.

*Amelioration.* The addition to juice or natural wine before, during, or after fermentation, of either water or pure dry sugar, or a combination of water and sugar to adjust the acid level.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.24, Delegation of the Administrator's Authorities in 27 CFR Part 24, Wine.

*Artificially carbonated wine.* Effervescent wine artificially charged with carbon dioxide and containing more than 0.392 grams of carbon dioxide per 100 milliliters.

*Bonded wine cellar.* Premises established under the provisions of this part. For the purposes of this part a wine premises designated a bonded winery is also a bonded wine cellar.

*Bonded wine premises.* Premises established under the provisions of this part on which operations in untaxpaid wine are authorized to be conducted.

*Bonded wine warehouse.* Bonded warehouse facilities established under the provisions of this part on wine premises by a warehouse company or other person for the storage of wine and allied products for credit purposes.

*Bonded winery.* Premises established under the provisions of this part on

which wine production operations are conducted and other authorized operations may be conducted.

*Bottle.* A container four liters or less in capacity, regardless of the material from which it is made, used to store wine or to remove wine from the wine premises.

*Bottler.* A proprietor of wine premises established under the provisions of this part who fills wine into a bottle.

*Brix.* The quantity of dissolved solids expressed as grams of sucrose in 100 grams of solution at 60 degrees F. (20 degrees C.) (Percent by weight of sugar).

*Bulk container.* Any container larger than 60 liters.

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

*Calendar quarter and quarterly.* These terms refer to the three-month period ending on March 31, June 30, September 30, or December 31.

*Calendar year.* The period which begins January 1 and ends on the following December 31.

*Case.* Two or more bottles, or one or more containers larger than four liters, enclosed in a box or fastened together by some other method.

*Chaptalization (Brix adjustment).* The addition of sugar or concentrated juice of the same kind of fruit to juice before or during fermentation to develop alcohol by fermentation.

*Cider.* See definitions for hard cider and tax exempt cider. For a description of an additional product which may be called cider, see § 4.21(e)(5) of this chapter.

*Concentrate plant.* An establishment qualified under part 18 of this chapter for the production of volatile fruit-flavor concentrate.

*Container.* A receptacle, regardless of the material from which it is made, used to store wine or to remove wine from wine premises. (Also see the definition of bulk container for containers larger than 60 liters).

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

*Distilled spirits plant.* An establishment qualified under part 19 of this chapter (excluding alcohol fuel plants) for producing, warehousing, or processing of distilled spirits (including denatured spirits), or manufacturing of articles.

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

*District director.* A district director of internal revenue.

*Effervescent wine.* A wine containing more than 0.392 grams of carbon dioxide per 100 milliliters.

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

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, 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.''

*Export or exportation.* A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and will include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico and to the territories of the Virgin Islands, American Samoa, and Guam will also be treated as exportations.

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

*Financial institution.* A bank or other financial institution, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The ''FRCS'' or ''Fedwire'' is a communications network that allows Federal Reserve System member financial institutions to effect a transfer of funds for their customers (or other financial institutions) to the Treasury account at the Federal Reserve Bank.

*Fold.* The ratio of the volume of the fruit must or juice to the volume of the volatile fruit-flavor concentrate produced from the fruit must or juice; for example, one gallon of volatile fruit-flavor concentrate of 100-fold would be the product from 100 gallons of fruit must or juice.

*Foreign wine.* Wine produced outside the United States.

*Formula wine.* Special natural wine, agricultural wine, and other than standard wine (except for distilling material and vinegar stock) produced on bonded wine premises under an approved formula.

*Fruit wine.* Wine made from the juice of sound, ripe fruit (other than grapes). Fruit wine also includes wine made from berries or wine made from a combination of grapes and other fruit (including berries).

*Gallon or wine gallon.* A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

*Grams per liter.* For the purposes of this part, the unit of measure equivalent to the ''parts per thousand'' unit of measure prescribed in the Internal Revenue Code of 1986, as amended.

*Grape wine.* Wine made from the juice of sound, ripe grapes.

*Hard cider.* Still wine derived primarily from apples or apple concentrate and water (apple juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, must represent more than 50 percent of the volume of the finished product) containing no other fruit product nor any artificial product which imparts a fruit flavor other than apple; containing at least one-half of 1 percent and less than 7 percent alcohol by volume; having the taste, aroma, and characteristics generally attributed to hard cider; and sold or offered for sale as hard cider.

*Heavy bodied blending wine.* Wine made from fruit without added sugar, with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

*High-proof concentrate.* A volatile fruit-flavor concentrate (essence) that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural constituents, i.e., without the addition of other substances.

*In bond.* When used with respect to wine or spirits, ''in bond'' refers to wine or spirits possessed under bond to secure the payment of the taxes imposed by 26 U.S.C. Chapter 51, and on which such taxes have not been determined. The term includes any wine or spirits on the bonded wine premises or a distilled spirits plant, or in transit between bonded premises (including in the case of wine, bonded wine premises). Additionally, the term refers to wine withdrawn without payment of tax under 26 U.S.C. 5362 and to spirits withdrawn without payment of tax under 26 U.S.C. 5214 (a)(5) or (a)(13) with respect to which relief from liability has not yet occurred.

*Invert sugar syrup.* A substantially colorless solution of invert sugar which has been prepared by recognized methods of inversion from pure dry sugar and contains not less than 60 percent sugar by weight (60 degrees Brix).

*Juice.* The unfermented juice (concentrated or unconcentrated) of grapes, other fruit (including berries) and authorized agricultural products exclusive of pulp, skins, or seeds.

*Kind.* Kind means the class and type of wine prescribed in this part and in 27 CFR part 4.

*Lees.* The settlings of wine.

*Liquid sugar.* A substantially colorless refined sugar and water solution containing not less than the equivalent of 60 percent pure dry sugar by weight (60 degrees Brix).

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters at 20 degrees

C. or 33.814 United States fluid ounces at 68 degrees F. of alcoholic beverage.

*Lot.* Wine of the same type. When used with reference to a ''lot of wine bottled'', lot means the same type of wine bottled or packed on the same date into containers.

*Must.* Unfermented juice or any mixture of juice, pulp, skins, and seeds prepared from grapes or other fruit (including berries).

*Natural wine.* The product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any cellar treatment authorized by subparts F and L of this part and containing not more than 21 percent by weight (21 degrees Brix dealcoholized wine) of total solids.

*Nonbeverage wine.* Wine, or wine products made from wine, rendered unfit for beverage use in accordance with § 24.215.

*Own production.* When used with reference to wine in a bonded winery, the term means wine produced by fermentation in the same bonded winery, whether or not produced by a predecessor in interest at the bonded winery. The term includes wine produced by fermentation in bonded wineries owned or controlled by the same or affiliated persons or firms when located within the same State.

*Packer.* A proprietor of wine premises established under the provisions of this part who fills wine into a container larger than four liters.

*Person.* An individual, trust, estate, partnership, association, company, or corporation. When used in connection with penalties, seizures, and forfeitures, the term includes an officer or employee of a corporation or a member or employee of a partnership, who as an officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

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

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

*Proprietor.* The person qualified under this part to operate a wine premises, and includes the term ''winemaker'' when the context so requires.

*Pure dry sugar.* Refined sugar 95 percent or more by weight dry, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch.

*Reconditioning.* The conduct of operations, after original bottling or packing, to restore wine to a merchantable condition. The term includes relabeling or recasing operations.

*Same kind of fruit.* In the case of grapes, all of the species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this will not preclude a more precise identification of the composition of the product for the purpose of its designation.

*Secretary.* The Secretary of the Treasury or the Secretary's designated delegate.

*Sparkling wine or champagne.* An effervescent wine containing more than 0.392 gram of carbon dioxide per 100 milliliters of wine resulting solely from the secondary fermentation of the wine within a closed container.

*Special natural wine.* A product produced from a base of natural wine (including heavy bodied blending wine) to which natural flavorings are added, and made pursuant to an approved formula in accordance with subpart H of this part.

*Specially sweetened natural wine.* A product made with a base of natural wine and having a total solids content in excess of 17 percent by weight (17 degrees Brix dealcoholized wine) and an alcohol content of not more than 14 percent by volume.

*Spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions or mixtures thereof, from whatever source or by whatever process produced), but not denatured spirits unless specifically stated.

*Standard wine.* Natural wine, specially sweetened natural wine, special

natural wine, and standard agricultural wine, produced in accordance with subparts F, H, and I of this part.

*Still wine.* Wine containing not more than 0.392 gram of carbon dioxide per 100 milliliters.

*Sugar.* Pure dry sugar, liquid sugar, and invert sugar syrup.

*Sweetening.* The addition of juice, concentrated juice or sugar to wine after the completion of fermentation and before taxpayment.

*Tax exempt cider.* Cider produced in accordance with § 24.76

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

*Taxpaid wine.* Wine on which the tax imposed by law has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred.

*Taxpaid wine bottling house.* Premises established under the provisions of this part primarily for bottling or packing taxpaid wine.

*Taxpaid wine premises.* Premises established under the provisions of this part on which taxpaid wine operations other than bottling are authorized to be conducted.

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

*Total solids.* The degrees Brix of unfermented juice or dealcoholized wine.

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

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

*United States wine.* Wine produced on bonded wine premises in the United States.

*Unmerchantable wine.* Wine which has been taxpaid, removed from bonded wine premises, and subsequently returned to a bonded wine premises under the provisions of § 24.295 for the purpose of reconditioning, reformulation or destruction.

*Vinegar.* A wine or wine product not for beverage use produced in accordance with the provisions of this part and having not less than 4.0 grams (4.0 percent) of volatile acidity (calculated as acetic acid and exclusive of sulfur dioxide) per 100 milliliters of wine.

*Volatile fruit-flavor concentrate.* Any concentrate produced by any process which includes evaporations from any fruit mash or juice.

*Wine.* When used without qualification, the term includes every kind (class and type) of product produced on bonded wine premises from grapes, other fruit (including berries), or other suitable agricultural products and containing not more than 24 percent of alcohol by volume. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine. A wine product containing less than one-half of one percent alcohol by volume is not taxable as wine when removed from the bonded wine premises.

*Wine premises.* Premises established under the provisions of this part on which wine operations or other operations are authorized to be conducted.

*Wine spirits.* Brandy or wine spirits authorized under 26 U.S.C. 5373 for use in wine production.

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–398, 63 FR 44783, Aug. 21, 1998; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. TTB–41, 71 FR 5602, Feb. 2, 2006; T.D. TTB–44, 71 FR 16938, Apr. 4, 2006]

## Subpart C—Administrative and Miscellaneous Provisions

AUTHORITIES

### § 24.19 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.24, Delegation of the Administrator's Authorities in 27 CFR Part 24, Wine. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16938, Apr. 4, 2006]

### § 24.20 Forms prescribed.

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

called for in each form will be furnished as indicated by the headings on the form and the instructions on or pertaining to the form and as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. TTB–44, 71 FR 16938, Apr. 4, 2006]

### § 24.21 Modified forms.

(a) *General.* The appropriate TTB officer may approve the use of a modified form in lieu of the prescribed form required by this part, when in the judgment of the appropriate TTB officer:

(1) Good cause has been shown for the use of the modified form and

(2) The use of the modified form will not result in a net increase in cost to the Government or hinder the effective administration of this part.

Except to adapt tax returns for use with data processing equipment, no proposal for modification of a prescribed form relating to qualification, to the giving of any bond, or to the assessment, payment, or collection of tax will be approved under this section.

(b) *Application.* The proprietor who desires to modify a prescribed form shall submit a written application to the appropriate TTB officer. The application will state the reasons a modified form is necessary and be accompanied by a copy of the proposed form with typical entries.

(c) *Conditions.* A modified form may not be used until the application has been approved by the appropriate TTB officer. Authorization for the use of a modified form is conditioned on compliance with the procedures, conditions, and limitations specified in the approval of the application. The use of a modified form does not relieve the proprietor from any requirement of this part. Authority for use of a modified form may be withdrawn whenever in the judgment of the appropriate TTB officer the effective administration of this part is hindered by the continuation of the authority. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.22 Alternate method or procedure.

(a) *General.* The proprietor, on specific approval of the appropriate TTB officer as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. As used in this section, an alternate method or procedure also includes alternate construction or equipment. No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, will be authorized under this section. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when in the judgment of the appropriate TTB officer:

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

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

(3) The alternate method or procedure will not be contrary to any provision of law, will not result in an increase in cost to the Government, and will not hinder the effective administration of this part.

(b) *Application.* The proprietor who desires to employ an alternate method or procedure shall submit a written application to the appropriate TTB officer. The application will specifically describe the proposed alternate method or procedure, and will set forth the reasons therefor. Alternate methods or procedures will not be employed until the application is approved by the appropriate TTB officer.

(c) *Conditions.* The proprietor shall, during the period of authorization for

an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization. (Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5556))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999]

### § 24.25 Emergency variations from requirements.

(a) *General.* The appropriate TTB officer may approve construction, equipment, and methods of operation other than as specified in this part, when in the judgment of such officer an emergency exists, the proposed variations from the specified requirements are necessary, and the proposed variations:

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

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

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

(b) *Application.* The proprietor must submit a written application to the appropriate TTB officer within 24 hours of any temporary approval granted under paragraph (c) of this section, which describes the proposed variation, and sets forth the reasons therefor.

(c) *Temporary approval.* The proprietor who desires to employ an emergency variation from requirements must contact the appropriate TTB officer and request temporary approval until the written application, required by paragraph (b) of this section, is acted upon. The appropriate TTB officer will be a subordinate of the TTB officer designated in paragraph (a) of this section. Where the emergency threatens life or property, the proprietor may take immediate action to correct the situation without prior notification; however, the proprietor must promptly contact the appropriate TTB officer and file with that officer a report concerning the emergency and the action taken to correct the situation.

(d) *Conditions.* The proprietor must, during the period of variation from requirements granted under this section, comply with the terms of the approved application. A failure to comply in good faith with any procedures, conditions, and limitations will automatically terminate the authority for a variation. Upon termination of the variation, the proprietor must fully comply with requirements of regulations for which the variation was authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the variation.

[T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.26 Authority to approve.

The appropriate TTB officer is authorized to approve, except as otherwise provided in this part, all applications, bonds, consents of surety, qualifying documents, claims, and any other documents required by or filed under this part, whether for original establishment, for changes subsequent to establishment, for discontinuance of business, for remission, abatement, credit, or refund of tax, or for any other purpose. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.27 Segregation of operations.

The appropriate TTB officer may require the proprietor to segregate operations within any wine premises established under this part, by partitions or otherwise, to the extent deemed necessary to prevent jeopardy to the revenue, to prevent confusion between operations, to prevent substitution with respect to the several methods of producing effervescent wine, and to prevent the commingling of standard wine with other than standard wine. (Sec.

201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.28 Installation of meters, tanks, and other apparatus.

The appropriate TTB officer may require the proprietor to install meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install a required apparatus will not be permitted to conduct business. (Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.29 Claims.

The appropriate TTB officer may require the proprietor or other person liable for the tax on wine or spirits to file a claim and to submit evidence of loss in any case where wine or spirits are lost or destroyed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5043, 5370))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.30 Supervision.

The appropriate TTB officer may require that operations on wine premises be supervised by any number of appropriate TTB officers necessary for the protection of the revenue or for the enforcement of 26 U.S.C. chapter 51 and applicable regulations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5366, 5553))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999]

### § 24.31 Submission of forms and reports.

The appropriate TTB officer may require the proprietor to submit to an appropriate TTB officer copies of prescribed transaction forms, records, reports, or source records used to prepare records, reports or tax returns. (Sec. 201, Pub. L. 85–859, 72 Stat. 1396, as amended (26 U.S.C. 5555))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999]

### § 24.32 Records.

The appropriate TTB officer may require the proprietor to maintain any record required by this part in a prescribed format or arrangement or otherwise change the method of recordkeeping in any case where the required information is not clearly or accurately reflected. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.35 Right of entry and examination.

Under 26 U.S.C. 7601, 7602, and 7606, appropriate TTB officers have authority to inspect during normal business hours the records, stocks, and wine premises (including any portion designated as a bonded wine warehouse) of the proprietor to determine compliance with all provisions of the internal revenue laws and regulations. In addition, for the purposes prescribed in 27 CFR 70.22, appropriate TTB officers may examine financial records, books of account, and any other books, papers, records, and data relevant to an inquiry. Any denial or interference with any inspection by the proprietor, or by agents or employees of the proprietor, is a violation of 26 U.S.C. 7342 and may be subject to an appropriate penalty. (August 16, 1954, Ch. 736, 68A Stat. 872, as amended, 901, as amended, 903, as amended (26 U.S.C. 5560, 7342, 7601, 7602, 7606))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.36 Instruments and measuring devices.

All instruments and measuring devices required by this part to be furnished by the proprietor for the purpose of testing and measuring wine, spirits, volatile fruit-flavor concentrate, and materials will be maintained by the proprietor in accurate and readily usable condition. The appropriate TTB officer may disapprove the use of any equipment or means of measurement found to be unsuitable for the intended purpose, inaccurate, or not in accordance with regulations. In this case, the proprietor shall promptly provide suitable and accurate equipment or measuring devices. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5357, 5366, 5368, 5552))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.37 Samples for the United States.

Appropriate TTB officers are authorized to take samples of wine, spirits, volatile fruit-flavor concentrate, or any other material which may be added to wine products, for analysis, testing, etc., free of tax to determine compliance with the provisions of law and regulation. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended, 1392, as amended, 1396, as amended (26 U.S.C. 5362, 5373, 5511, 7510))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

## FACILITIES AND ASSISTANCE

### § 24.40 Gauging and measuring.

Appropriate TTB officers may require the proprietor to furnish the necessary facilities and assistance to gauge or measure wine or spirits in any container or to examine any apparatus, equipment, container, or material on wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended, 1395, as amended, 1396, as amended (26 U.S.C. 5357, 5366, 5368, 5555))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.41 Office facilities.

The appropriate TTB officer may require the proprietor to furnish temporarily a suitable work area, desk and equipment necessary for the use of appropriate TTB officers in performing Government duties whether or not such office space is located at the specific premises where regulated operations occur or at corporate business offices where no regulated activity occurs. Such office facilities will be subject to approval by the appropriate TTB officer.

[T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

## EMPLOYER IDENTIFICATION NUMBER

### § 24.45 Use on returns.

The employer identification number (as defined at 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number will be shown on each return filed pursuant to the provisions of this part, including amended returns. Failure of the taxpayer to include the employer identification number on any return filed pursuant to the provisions of this part may result in the assertion and collection of the penalty prescribed in 27 CFR 70.113 of this chapter. (Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

### § 24.46 Application.

(a) An employer identification number will be assigned pursuant to application on Internal Revenue Service (IRS) Form SS–4 filed by the taxpayer. IRS Form SS–4 may be obtained from the director of the service center or from any district director.

(b) An application on IRS Form SS–4 will be made by the taxpayer who, prior to filing the first return, has neither secured nor made application for an employer identification number. An application on IRS Form SS–4 will be filed on or before the seventh day after the date on which the first return is filed.

(c) Each taxpayer shall make application for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a tax return under the provisions of this part. (Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109))

(Approved by the Office of Management and Budget under control number 1512–0492)

### § 24.47 Execution of IRS Form SS–4.

(a) *Preparation.* The application on IRS Form SS–4, together with any supplementary statement, will be prepared in accordance with the form instructions and applicable regulations. The application will be filed with the director of the internal revenue service center as instructed on the Form SS–4.

(b) *Signature.* The application will be signed by:

(1) The individual, if the taxpayer is an individual; or,

(2) The president, vice president, other principal officer, or other person authorized to sign, if the taxpayer is a corporation; or,

(3) A responsible and duly authorized member or officer having knowledge of its affairs, if the taxpayer is a partnership or other unincorporated organization; or,

(4) The fiduciary, if the taxpayer is a trust or estate. (Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109))

(Approved by the Office of Management and Budget under control number 1512–0492)

## SPECIAL (OCCUPATIONAL) TAXES

### § 24.50 Payment of special (occupational) tax.

(a) *General.* Except as otherwise provided in paragraph (c) of this section, every proprietor of a bonded wine premises or a taxpaid wine bottling house shall pay a special (occupational) tax at the rate specified by § 24.51. The tax will be paid on or before the date of commencing business as a bonded wine premises or taxpaid wine bottling house, and thereafter every year on or before July 1. On commencing business, the tax will be computed from the first day of the month in which the liability is incurred, through the following June 30. Thereafter, the tax will be computed for the entire year (July 1 through June 30).

(b) *Each place of business taxable.* Subject to paragraph (c) of this section, proprietors of a bonded wine premises or a taxpaid wine bottling house incur special (occupational) tax at each place of business in which an occupation subject to special (occupational) tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special (occupational) tax, if the divisions of the premises are otherwise contiguous. A proprietor of a bonded wine premises or a taxpaid wine bottling house does not incur additional special (occupational) tax liability for sales of wine made at a location other than on wine premises described in the application, TTB F 5120.25, if the location where the sales are made is contiguous to the bonded wine premises or the taxpaid wine bottling house in the manner described in this paragraph. (26 U.S.C. 5081, 5142, 5143)

(c) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the proprietor must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(26 U.S.C. 5081, 5142, 5143)

(Approved by the Office of Management and Budget under control numbers 1513–0088 and 1513–0113)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

### § 24.51 Rates of special (occupational) tax.

(a) *General.* Title 26 U.S.C. 5081(a) (2), (3), and (4) impose a special (occupational) tax of $1,000 per year on every proprietor of a bonded wine premises or

a taxpaid wine bottling house. However, under 26 U.S.C. 5148(a), the tax rate is zero during the suspension period described in §24.50(c).

(b) *Reduced rate for small proprietors.* Except during the suspension period described in §24.50(c) when the tax rate is zero, title 26 U.S.C. 5081(b) provides for a reduced rate of $500 per year with respect to any proprietor of a bonded wine premises or a taxpaid wine bottling house whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special (occupational) tax imposed by §24.50 relates) are less than $500,000. The ''taxable year'' to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer will be included, not just the gross receipts of the business subject to special (occupational) tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special (occupational) tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ''controlled group''; in that case, the rules of paragraph (c) of this section apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. ''Controlled group'' means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' is replaced by the words ''more than 50 percent'' in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months will be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year will be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3). (26 U.S.C. 448, 5061, 5081)

(Approved by the Office of Management and Budget under control numbers 1512–0472 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

### §24.52 Exemption from special (occupational) tax.

(a) *General.* The proprietor of a bonded wine premises or a taxpaid wine bottling house will not be required to pay special (occupational) tax or to register during the suspension period described in §24.50(c), as a wholesale dealer or retail dealer on account of the sale, at the bonded wine premises or the taxpaid wine bottling house, or at the principal business office as designated in writing to the appropriate TTB officer, of wine which, at the time of sale, is stored at the bonded wine premises or taxpaid wine bottling house, or has been removed from the bonded wine premises to a taxpaid wine premises, the operations of which are integrated with the operations of the bonded wine premises and which is adjacent to or in the immediate vicinity of the bonded wine premises. The proprietor may not have more than one place of sale, as to each bonded wine premises or taxpaid wine bottling house, that will be exempt from special (occupational) tax or registration under this section.

(b) *Place of exemption.* Unless the proprietor has claimed the exemption elsewhere, it will be presumed that the exemption is claimed at the bonded wine premises or taxpaid wine bottling house where the wine or spirits are stored. If exemption from payment of special (occupational) tax or from registration is to be claimed for sales at the principal business office rather

than for sales at the bonded wine premises or taxpaid wine bottling house, the proprietor shall state such intention in the approved application or file a notice in letter form of this intention with the appropriate TTB officer. Where the exemption is claimed for a place other than the bonded wine premises or taxpaid wine bottling house, the special (occupational) tax will be paid or registration will be made during the suspension period described in § 24.50(c), for any sales made at the bonded wine premises or taxpaid wine bottling house.

(c) *Exception*. Where the proprietor of a bonded wine premises or a taxpaid wine bottling house has not paid special (occupational) tax or has not registered during the suspension period described in § 24.50(c), as a wholesale dealer and consummates sales of wine to another dealer at the purchaser's place of business through a delivery route sales personnel or otherwise, the proprietor of the bonded wine premises or taxpaid wine bottling house shall be required to pay special (occupational) tax or to register during that suspension period, as a wholesale dealer.

(d) *Wholesaler's special (occupational) tax*. A wholesale dealer in liquors who has paid the appropriate special (occupational) tax or who has registered during the suspension period described in § 24.50(c), as provided in part 31 of this chapter will not again be required to pay special (occupational) tax or register as a wholesale dealer because of sales of wine to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchaser's place of business. (Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5111, 5113, 5142))

(Approved by the Office of Management and Budget under control numbers 1512–0472 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999; T.D. TTB–25, 70 FR 19882, Apr. 15, 2005; T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

### § 24.53 Special (occupational) tax returns.

(a) *General*. Special (occupational) tax is paid by filing TTB F 5630.5, Special Tax Registration and Return, with payment of tax, in accordance with the instructions on the form. During the suspension period described in § 24.50(c), an annual return is required even though no tax is due.

(b) *Preparation of TTB F 5630.5*. Unless correctly preprinted on a renewal form, all of the information called for on F 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special (occupational) tax.

(3) The employer identification number (see § 24.45).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown will be the taxpayer's principal place of business (or principal office, in case of a corporate taxpayer).

(5) The class(es) of special (occupational) tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 24.50(c).

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special (occupational) tax. ''Owner of the business'' includes every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax*. A taxpayer subject to special (occupational) tax (or required to register during the suspension period described in § 24.50(c))for the same period at more than one location or for more than one class of tax shall:

(1) File one special (occupational) tax return, TTB F 5630.5, with payment of

applicable tax, to cover all such locations and classes of tax; and

(2) Unless correctly printed on a renewal form, prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB F 5630.5), employer identification number, and period covered by the return. The list will show, by States, the name, address, and tax class of each location for which special (occupational) tax is being paid or for which registration is being made during the suspension period described in § 24.50(c). The original of the list will be filed with TTB in accordance with instructions on the return, and the copy will be retained at the taxpayer's principal place of business (or principal office, in case of a corporate taxpayer) for the period specified in § 24.300(d).

(d) *Signing of TTB F 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any corporate officer. In each case, the person signing the return shall designate his or her capacity as ''individual owner,'' ''member of firm,'' or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney-in-fact.* If a return is signed by an agent or attorney-in-fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney-in-fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office where the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* TTB F 5630.5 will contain or be verified by a written declaration that the return has been executed under the penalties of perjury. (26 U.S.C. 5142, 6061, 6065, 6151, 7011)

(Approved by the Office of Management and Budget under control numbers 1512–0472 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

### § 24.54 Special (occupational) tax stamps.

(a) *Issuance of special (occupational) tax stamps*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a properly executed return on Form 5630.5, together with the applicable full remittance, the taxpayer will be issued an appropriately designated special (occupational) tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 24.53(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in case of a corporate taxpayer).

(2) *Exception for suspension period.* During the suspension period described in § 24.50(c) when registration is required but no tax is due, a special tax stamp will not be issued.

(b) *Distribution of special (occupational) tax stamps for multiple locations.* On receipt of the special (occupational) tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB F 5630.5. Unless correctly printed on the renewal stamp, the taxpayer shall designate one stamp for each location and shall type or print on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special (occupational) tax stamps.* All stamps denoting payment of special (occupational) tax will be kept available for inspection by

appropriate TTB officers, at the location for which designated, during business hours. (26 U.S.C. 5146, 6806)

(Approved by the Office of Management and Budget under control numbers 1512–0472 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999; T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

### § 24.55 Changes in special (occupational) tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on TTB F 5630.5, the proprietor shall file an amended special (occupational) tax return as soon as practicable after the change covering the new corporate or firm name, or trade name. No new special (occupational) tax is required to be paid. The proprietor shall attach the special (occupational) tax stamp for endorsement of the change in name, except if the change occurs during the suspension period described in § 24.50(c).

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a bonded wine premises or taxpaid wine bottling house, the successor shall file a new special tax return, pay a new special (occupational) tax, and obtain the required special (occupational) tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 24.50(c) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special (occupational) tax was paid (or for which registration was made during the suspension period described in § 24.50(c)), without paying a new special (occupational) tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special (occupational) tax return on Form 5630.5, which shows the basis of succession. Except during the suspension period described in § 24.50(c), a person who is a successor to a business for which special (occupational) tax has been paid and who fails to register the succession is liable for special (occupational) tax computed from the first day of the calendar month in which he or she began to carry on the business. During the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member;

(d) *Change in location.* (1) Subject to paragraph (d)(2) of this section, if there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file an amended special (occupational) tax return covering the new location. The proprietor shall attach the special (occupational) tax stamp or stamps for endorsement of the change in location. No new special (occupational) tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to file a new special (occupational) tax return, pay a new special (occupational) tax, and obtain a new special (occupational) tax stamp.

(2) If the change in location occurs during the suspension period described in § 24.50(c) when no tax is due and no special (occupational) tax stamp is issued, the requirements of paragraph (d)(1) of this section still apply, except with regard to attachment of a special (occupational) tax stamp and payment of a new special (occupational) tax. During the suspension period, a failure to comply with paragraph (d)(1) of this

section may result in a penalty under 26 U.S.C. 5603(b).

(26 U.S.C. 5143, 7011)

(Approved by the Office of Management and Budget under control numbers 1513–0088 and 1513–0113)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB–36, 70 FR 62244, Oct. 31, 2005]

ASSESSMENTS

### § 24.60 General.

Where the appropriate TTB officer determines by examination of records, inventories, or otherwise that the proprietor has incurred liability for the tax on wine, distilled spirits, or special (occupational) tax, and the proprietor does not pay the tax upon notification of the liability, the tax will be assessed. (August 16, 1954, Ch. 736, 68A Stat. 767, as amended (26 U.S.C. 6201))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.61 Assessment of tax.

When wine or spirits in bond are lost or destroyed (except wine or spirits on which the tax is not collectible by reason of the provisions of 26 U.S.C. 5008 or 26 U.S.C. 5370, as applicable) and the proprietor or other person liable for the tax on the wine or spirits fails to file a claim when required pursuant to § 24.29 or when the claim is denied, the tax will be assessed. In any case where wine is produced, imported, or received otherwise than as authorized by law, or where wine or spirits are removed, possessed, or knowingly used in violation of applicable law, or volatile fruit-flavor concentrate is sold, transported, or used in violation of law, the tax will be assessed. (Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1323, as amended, 1332, as amended, 1335, as amended, 1381, as amended, 1387, as amended, 1392, as amended (26 U.S.C. 5001, 5008, 5043, 5061, 5370, 5391, 5512))

(Approved by the Office of Management and Budget under control number 1512–0492)

### § 24.62 Notice.

If an investigation or an examination of records discloses that liability for the tax on wine or distilled spirits, or special (occupational) tax has been incurred by the proprietor, the appropriate TTB officer will notify the proprietor by letter of the basis and the amount of the proposed assessment in order to afford the proprietor an opportunity to submit a protest, with supporting evidence, within 45 days, or to request a conference with regard to the tax liability. However, if collection of the tax liability may be jeopardized by a delay, the appropriate TTB officer may take immediate jeopardy assessment action pursuant to 26 U.S.C. 6861. (Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370, 6862))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

CLAIMS

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

(a) *Claim for remission of tax on spirits.* All claims for remission of tax required by this part, relating to the loss or destruction of spirits in bond, will be filed with the appropriate TTB officer within 30 days of discovery of the loss. A claim filed under this paragraph will set forth the following information:

(1) The name, registry number, and location of the distilled spirits plant which produced the spirits;

(2) The serial numbers of the containers from which the spirits were lost, the quantity lost from each, and the total quantity of spirits covered by the claim;

(3) The total amount of tax for which claim is filed;

(4) The date of the loss or destruction (or, if not known, the date of discovery);

(5) The nature and cause (if known) of the loss will be stated specifically and in sufficient detail to disclose all material facts and circumstances surrounding the loss;

(6) If lost in transit, the name of the carrier and the points between which shipped; and

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

(b) *Claim for allowance of loss on wine.* A claim for allowance of loss required by this part, relating to the loss or destruction of wine in bond, will be filed with the appropriate TTB officer. A claim for allowance of loss for wine lost in transit, by fire or other casualty, or any other extraordinary or unusual losses, including a loss by theft, will be filed immediately. Any other claim for allowance of loss will be attached to and submitted with the TTB F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period in which the inventory required by § 24.313 is taken or, in the case of discontinuance of the premises or change in proprietorship, to the final report filed. A claim filed under this paragraph will set forth the information required by paragraphs (a)(5) to (a)(7) of this section and, in addition, will set forth the following information:

(1) The original volume of wine which sustained the loss, the tax class, the quantity of wine lost, and the percentage of wine lost;

(2) Where the claim covers losses sustained at bonded wine premises during the tax year, the claimant shall state:

(i) The quantities of wine on hand at the beginning of the tax year, received in bond during the tax year, and produced during the tax year;

(ii) Where the percentage of loss is calculated separately by tax class, the volume of wine by tax class; and

(iii) If effervescent wine is produced, the volume of wine produced by fermentation in bottles, by artificial carbonation, and by bulk processing; and

(3) Claims covering losses of wine during transit in bond will show the volume lost from each container, the serial number, if any, and the volume shipped.

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

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

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

(d) *Indemnification or recompense.* A claim filed under paragraph (a) or (b) of this section will specify whether the claimant has been or will be indemnified or recompensed for the spirits or wine lost and, if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wine, less the tax.

(e) *Supporting documents.* A claim filed under paragraph (a), (b), or (c) of this section will be supported by affidavits of persons having personal knowledge of the loss or destruction. In addition, if filed for tax on wine or spirits lost in transit, the claim will be supported by a copy of the carrier's bill of lading. (Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5008, 5370, 5373))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1991, as amended by T.D. ATF–338, 58 FR 19063, Apr. 12, 1993; T.D. ATF–376, 61 FR 31030, June 19, 1996; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.66 Claims on wine returned to bond.

(a) *General.* A claim for credit or refund, or relief from liability, of tax on unmerchantable United States wine returned to bonded wine premises will be

filed with the appropriate TTB officer within six months after the date of the return of the wine to bond. A single claim may not be filed under this section for a quantity on which credit or refund of tax would be in an amount less than $25. This limitation does not apply with respect to any returned wine on which the six month period for filing a claim will expire.

(b) *Filing.* A claim filed under this section will set forth the following information:

(1) The kind, volume, and tax class of the wine;

(2) As to each tax class, the amount of tax previously paid or determined; and

(3) The date the wine was returned to bond.

(c) *Indemnification or recompense.* A claim filed under this section will specify whether the claimant has been or will be indemnified or recompensed for the wine returned to bond and if so, the amount and nature of indemnity or recompense and the actual value of the wine, less the tax. (Sec. 201., Pub. L. 85–859, 72 Stat. 1332, as amended, 1380, as amended (26 U.S.C. 5044, 5361, 5371))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.67 Other claims.

The requirements with respect to a claim for:

(a) Remission of tax on wine withdrawn without payment of tax under the provisions of § 24.292, and lost in transit to the port of export, vessel or aircraft, foreign-trade zone, customs bonded warehouse, or manufacturing bonded warehouse, as applicable, are contained in 27 CFR part 28.

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

(c) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on wines or other liquors previously withdrawn, which are lost, rendered unmarketable, or condemned by a duly authorized official as a result of

(1) A major disaster,

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

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

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–376, 61 FR 31030, June 19, 1996; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 24.68 Insurance coverage.

The remission, abatement, refund, credit, or other relief, of taxes on wine or spirits provided for under this part will be allowed only to the extent that the claimant is not indemnified or recompensed for such tax by any valid claim of insurance or otherwise. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5064, 5371))

### § 24.69 Filing of claims.

(a) *Claims.* All claims filed under this part for abatement, refund, credit, or remission of tax will be filed on TTB F 5620.8 (2635). Each claim filed under this part will:

(1) Show the name, address, and title of the claimant;

(2) Be signed by the claimant or the duly authorized agent of the claimant; and

(3) Be executed under the penalties of perjury.

(b) *Supporting documents.* Forms, supporting statements, and any other documents required by this part to be submitted with a claim will be attached to the claim and be considered a part of the claim. The appropriate TTB officer may require the submission of additional evidence in support of any claim filed under this part. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5064, 5370))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.70 Claims for credit of tax.

Claims for credit of tax, as provided in this part, may be filed after determination of the tax whether or not the tax has been paid. Where a claim for credit of tax is filed, the claimant shall, upon receipt of notification of allowance of credit from the appropriate TTB officer, make an adjusting entry on the next tax return (or returns) to the extent necessary to exhaust the credit. The claimant shall also make an explanatory statement on each tax return specifically identifying the notification of allowance of credit. The claimant may not anticipate allowance of a credit or make an adjusting entry in a tax return until TTB has acted on the claim. (Sec. 201, Pub. L. 85–859, 72 Stat. 1332, as amended, 1335, as amended, 1381, as amended, 1395, as amended (26 U.S.C. 5043, 5044, 5061, 5370, 5555))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

TAX EXEMPT WINE

### § 24.75 Wine for personal or family use.

(a) *General.* Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(b) *Quantity.* The aggregate amount of wine that may be produced exempt from tax with respect to any household may not exceed:

(1) 200 gallons per calendar year for a household in which two or more adults reside, or

(2) 100 gallons per calendar year if there is only one adult residing in the household.

(c) *Definition of an adult.* For the purposes of this section, an adult is any individual who is 18 years of age or older. However, if the locality in which the household is located has established by law a greater minimum age at which wine may be sold to individuals, the term ''adult'' will mean an individual who has attained that age.

(d) *Proprietors of bonded wine premises.* Any adult, defined in § 24.75(c), who operates a bonded wine premises as an individual owner or in partnership with others, may produce wine and remove it from the bonded wine premises free of tax for personal or family use, subject to the limitations in § 24.75(b).

(e) *Limitation.* This exemption should not in any manner be construed as authorizing the production of wine in violation of applicable State or local law. Except as provided in § 24.75(d), this exemption does not otherwise apply to partnerships, corporations, or associations.

(f) *Removal.* Wine produced under this section may be removed from the premises where made for personal or family use including use at organized affairs, exhibitions or competitions, such as home winemaker's contests, tastings or judgings, but may not under any circumstances be sold or offered for sale. The proprietor of a bonded wine premises shall pay the tax on any wine removed for personal or family use in excess of the limitations provided in this section and shall also enter all quantities removed for personal or family use on TTB F 5120.17, Report of Bonded Wine Premises Operations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

(Approved by the Office of Management and Budget under control number 1512–0216)

[T.D. ATF–299, 55 FR 24989, June 19, 1991, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993; T.D. ATF–344, 58 FR 40354, July 28, 1993]

### § 24.76 Tax exempt cider.

Cider, when produced solely from the noneffervescent fermentation of apple juice without the use of any preservative method or material, and when produced at a place other than a bonded wine premises and sold or offered for sale as cider, and not as wine or as a substitute for wine, is not subject to the tax on wine, or to the provisions of this part. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

### § 24.77 Experimental wine.

(a) *General.* Any scientific university, college of learning, or institution of scientific research may, without payment of tax, produce, receive, blend, treat, and store wine for experimental or research use, but not for consumption (other than organoleptic tests) or sale, and may receive wine spirits without payment of tax in quantities as

may be necessary for the production of wine.

(b) *Qualification.* An institution that wants to conduct experimental wine operations must apply in letter form to the appropriate TTB officer. The application will show the name and address of the institution, the nature, extent, and purpose of the operations to be conducted, describe the operations and equipment and the location at which operations will be conducted (including identification of the building or buildings, or portions thereof, to be used), and the security measures to be provided. If wine spirits are to be used, that fact will be stated together with the estimated annual requirements in proof gallons. A secure place of storage under lock will be provided for such spirits and will be described in the application. The applicant must, when required by the appropriate TTB officer, furnish as part of the application, additional information that may be necessary to determine whether the application should be approved. Operations may not begin until authorized by the appropriate TTB officer.

(c) *Procurement of spirits.* Where the approved application provides for the use of wine spirits in experimental wine operations, such spirits may be procured to the extent stated in the approved qualifying application. However, an application will be filed with the appropriate TTB officer and authorization obtained for each wine spirits procurement.

(d) *Records.* All approved qualifying documents and applications will be retained in the files of the institution and will be exhibited on request to appropriate TTB officers. No reports concerning wine or wine spirits need be filed unless required by appropriate TTB officer, but records appropriate to the experiments to be conducted and records documenting the disposition of the wine and wine spirits will be retained and will be made available for inspection by appropriate TTB officers. If wine spirits are used, the records will show the quantities of spirits received and used each day.

(e) *Discontinuance.* When an institution discontinues experimental wine operations, all remaining wine or wine spirits will be disposed of either by destruction or shipment to premises authorized to receive wine or wine spirits. A letter application will be filed with the appropriate TTB officer and authorization obtained prior to the destruction or shipment of the wine or wine spirits. When the authorized destruction or shipment has been completed, a letter notification will be sent to the appropriate TTB officer. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

(Approved by the Office of Management and Budget under control numbers 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999]

FORMULAS

## § 24.80 General.

The proprietor shall, before production, obtain approval of the formula and process by which special natural wine, agricultural wine, and other than standard wine (except distilling material or vinegar stock) are to be made. The formula must be prepared and filed on TTB F 5120.29, Formula and Process for Wine, in accordance with the instructions on the form. A nonbeverage wine formula will show the intended use of the finished wine or wine product. Any formula approved under this section will remain in effect until revoked, superseded, or voluntarily surrendered. Except for research, development, and testing, no special natural wine, agricultural wine, or, if required to be covered by an approved formula, wine other than standard wine may be produced prior to approval by the appropriate TTB officer of a formula covering each ingredient and process (if the process requires approval) used in the production of the product. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1386, as amended, 1395, as amended (26 U.S.C. 5361, 5367, 5386, 5387, 5555))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.81 Filing of formulas.

The proprietor shall on each formula filed designate all ingredients and, if required, describe each process used to produce the wine. The addition or elimination of ingredients, changes in quantities used, and changes in the process of production, or any other change in an approved formula, will require the filing of a new TTB F 5120.29. After a change in formula is approved, the original formula must be surrendered to the appropriate TTB officer. The proprietor shall serially number each formula, commencing with ''1'' and continuing thereafter in numerical sequence. Nonbeverage wine formulas will be prefixed with the symbol ''NB.'' The appropriate TTB officer may at any time require the proprietor to file a statement of process in addition to that required by the TTB F 5120.29 or any other data to determine whether the formula should be approved or the approval continued. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.82 Samples.

Except for vinegar and salted wine as defined in § 24.215, the proprietor shall submit under separate cover at the time of filing any nonbeverage wine formula a 750 mL sample of the base wine used and a 750 mL sample of the finished wine or wine product. The latter sample will be considered representative of the finished product. Any material change in the flavor or other characteristics of the finished product from that of the approved sample will require the filing of a new formula even though the ingredients may be the same. In addition, the appropriate TTB officer may, at any time, require the proprietor to submit samples of any wine or wine product made in accordance with an approved formula or of any materials used in production. (Sec. 201, Pub. L 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

## ESSENCES

### § 24.85 Essences.

Essences or extracts (preparations of natural constituents extracted from fruit, herbs, berries, etc.) may be used in the production of any formula wine except agricultural wine. The essences may be produced on wine premises or elsewhere. Where an essence contains spirits, use of the essence may not increase the volume of the wine more than 10 percent nor its alcohol content more than four percent by volume. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

### § 24.86 Essences produced on wine premises.

Wine, taxpaid spirits, or spirits withdrawn tax-free may be used in the production of essences on wine premises. The description of the process for producing the essence may be included as part of a formula for the production of a formula wine or a separate formula may be filed on TTB F5120.29. If a separate formula is filed for the essence, the serial number of the formula by which it is produced will be shown in the TTB F 5120.29 covering the formula wine in which it is to be used. If an essence is to be made in quantities greater than required for individual lots of formula wine, and stored on the premises, a separate formula will be filed for the essence. Essences made on wine premises with wine spirits withdrawn free of tax pursuant to 26 U.S.C. 5214(a)(5) may only be used in the production of a formula wine, and may not be removed from the premises where made. Essences made on wine premises with the use of tax-free spirits withdrawn free of tax pursuant to 26 U.S.C. 5214(a)(13) may only be used in the production of a nonbeverage wine or wine product and may not be removed from the premises where made. The TTB F 5120.29 for the production of an essence

is filed in the same manner as for the production of formula wine and a sample of the essence produced will be at least four fluid ounces. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control number 1512–0059)

### § 24.87 Essences made elsewhere.

Before an essence not made on wine premises may be used in the production of formula wine, the manufacturer of the essence shall obtain approval from the appropriate TTB officer. The request for approval will identify the essence by name or number and by the name of the manufacturer, and a sample of at least four fluid ounces of the essence will be submitted. However, a request for approval and submission of a sample is not required if the essence is made pursuant to approval of a formula on TTB F 5530.5, Formula and Process for Nonbeverage Product. Essences made under an approved formula on TTB F 5530.5 will be described on TTB F 5120.29 by showing the name of the manufacturer, the manufacturer's nonbeverage drawback formula number, and the date of approval by the appropriate TTB officer. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## CONVEYANCE OF WINE OR SPIRITS ON WINE PREMISES

### § 24.90 Taxpaid products.

Taxpaid wine or other taxpaid products may be conveyed across bonded wine premises, but may neither be stored nor allowed to remain on bonded wine premises and will be kept separate from untaxpaid wine or spirits. However, upon payment or determination of the tax, bulk wine may remain on bonded wine premises until the close of the business day following the day the tax was paid or determined, respectively, or the bonded wine premises on which the tank is located may be alternated as taxpaid wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

### § 24.91 Conveyance of untaxpaid wine or spirits.

Untaxpaid wine or spirits may be conveyed between different portions of the same bonded wine premises. Untaxpaid wine or spirits may also be conveyed by uninterrupted transportation over any public thoroughfare, or over a private roadway if the owner or lessee of the roadway agrees, in writing, to allow appropriate TTB officers access to the roadway to perform their official duty. The conveyance of wine or spirits as authorized in this section is subject to the following conditions:

(a) The untaxpaid wine or spirits are not stored or allowed to remain on any premises other than bonded wine premises;

(b) The untaxpaid wine or spirits are kept completely separate from taxpaid wine or spirits; and

(c) A description of the means and route of conveyance and of the portions of the bonded wine premises between which wine or spirits will be conveyed, as well as a copy of any agreement furnished by the owner or lessee of a private roadway, have been submitted to and approved by the appropriate TTB officer. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C 5357, 5365))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13684, Mar. 22, 1999]

### § 24.92 Products in customs custody.

Products in customs custody may be conveyed across bonded wine premises subject to the following conditions:

(a) The products are not stored or allowed to remain on bonded wine premises beyond the close of the business day; and

(b) The products in customs custody are kept separate from wine and spirits on bonded wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C 5357, 5361, 5365))

SAMPLES

### § 24.95 General.

Wine or wine spirits may be withdrawn free of tax from a bonded wine premises for use by or for the account of the proprietor or the agents of the proprietor, for analysis or testing, organoleptically or otherwise. Wine or wine spirits may be used for testing purposes, and wine may be used for tasting or sampling on bonded wine premises free of tax. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended (26 U.S.C. 5362, 5372, 5373))

### § 24.96 Use off premises.

The proprietor may remove samples of wine or wine spirits free of tax for analysis or testing purposes.

(a) *Size.* The size of each sample may not be more than one liter for each lot of wine or wine spirits to be analyzed or tested unless the appropriate TTB officer authorizes a larger quantity.

(b) *Disposition of samples.* Remnants or residues of samples remaining after analysis or testing, and which are not retained as specimens, will be destroyed or returned to bonded wine premises. Free of tax samples or residues may not be consumed or sold.

(c) *Records.* The proprietor shall maintain records of all samples taken for analysis or testing, showing the size of each sample, the kind of wine or wine spirits, date of removal, and the name and address to where sent.

(d) *Labeling of samples.* Each sample taken for analysis or testing will be labeled ''Sample for Analysis Only''. The label will show the name, address, and registry number of the bonded wine premises, date, and the kind of wine or wine spirits.

(e) *Limitation.* The tax will be collected on any wine or wine spirits withdrawn under this section which are used or disposed of for purposes other than as authorized. When the quantity of wine or wine spirits withdrawn under this section exceeds the amount necessary for the purpose intended the tax will be collected on such excess. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5362, 5367, 5368, 5373))

(Approved by the Office of Management and Budget under control numbers 1512–0298 and 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.97 Use on premises.

(a) *Analysis or testing.* The proprietor may take samples of wine or wine spirits free of tax for analysis or testing on bonded wine premises. The proprietor shall maintain records showing the size, kind of wine or wine spirits, date, and disposition of each sample retained as a laboratory specimen. The label of each sample retained as a laboratory specimen will be marked ''Sample for Analysis Only'' and will show the kind of wine or wine spirits.

(b) *Tasting.* The proprietor may take samples of wine free of tax for organoleptic tasting on bonded wine premises. If a room or area is set aside for public tasting purposes, a record will be maintained showing the date, quantity and kind of wine transferred to the room or area for tasting.

(c) *Limitation.* The tax will be collected on any wine or wine spirits withdrawn under this section which are used or disposed of for purposes other than as authorized. When the quantity of wine or wine spirits withdrawn under this section exceeds the amount necessary for the purpose intended the tax will be collected on such excess. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5362, 5372))

(Approved by the Office of Management and Budget under control numbers 1512–0298 and 1512–0503)

## Subpart D—Establishment and Operations

### § 24.100 General.

Each person desiring to conduct operations in wine production, as specified in § 24.101(b), (other than the production of wine free of tax as provided in §§ 24.75 through 24.77) shall, prior to commencing operations, establish wine premises, make application as provided in § 24.105, file bond, and receive permission to operate wine premises as

provided in this part. After approval, the wine premises will be designated a bonded winery, bonded wine cellar or taxpaid wine bottling house. As provided in § 24.107, the designated bonded winery will be used if production operations are to be conducted. In addition, wine premises may be used, in accordance with the provisions of this part, for the conduct of certain other operations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351, 5352))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

PREMISES AND OPERATIONS

### § 24.101 Bonded wine premises.

(a) *General.* A person desiring to conduct operations involving untaxpaid wine, including the use of spirits in wine production, shall file an application and bond as provided in § 24.105. Further, a warehouse company or other person may, upon obtaining the consent of the proprietor and the surety on the bond and upon filing an application, as provided in § 24.108, and receiving approval, establish at the wine premises a bonded wine warehouse for the storage of wine and allied products for credit purposes.

(b) *Authorized operations.* Except as provided in this part, no operation may be conducted on bonded wine premises other than those authorized. The following operations are authorized:

(1) The receipt, production, blending, cellar treatment, storage, and bottling or packing of untaxpaid wine;

(2) The use of wine spirits in beverage wine production and the use of spirits in nonbeverage wine production;

(3) The receipt, preparation, use, or removal of fruit, concentrated or unconcentrated fruit juice, or other materials to be used in the production or cellar treatment of wine; and

(4) The preparation, storage, or removal of commercial fruit products and by-products (including volatile fruit-flavor concentrate) not taxable as wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended (26 U.S.C. 5351, 5353, 5361))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.102 Premises established for taxpaid wine operations.

A person desiring to bottle or pack taxpaid United States or foreign wine shall file an application as provided in § 24.105 to establish a taxpaid wine bottling house premises. A person desiring to conduct taxpaid United States or foreign wine operations, other than bottling or packing taxpaid wine, at bonded wine premises shall include in their application, as provided in § 24.109, the establishment of taxpaid wine premises.

(a) *Taxpaid wine premises.* Premises on which taxpaid United States or foreign wine may be received and stored, or blended with wine of the same kind and tax class, or reconditioned, and removed.

(b) *Taxpaid wine bottling house premises.* Premises on which taxpaid United States or foreign wine may be received, stored, mixed with wine of the same kind, tax class and country of origin to facilitate handling, reconditioned, bottled or packed, and removed. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1381, as amended (26 U.S.C. 5352, 5363))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.103 Other operations.

Upon the specific approval of the appropriate TTB officer, other operations not provided for in this part may be conducted on wine premises. Authority to conduct other operations may be obtained by submitting an application to the appropriate TTB officer. The application must specifically describe the operation to be conducted and the wine premises and equipment to be used. An appropriate TTB officer may make any inquiry necessary to determine whether the conduct of other operations on wine premises would jeopardize the revenue, conflict with wine operations, or be contrary to law. Other operations

authorized under this section will be conducted in accordance with the conditions, limitations, procedures, and terms stated in the approved application. Authority to conduct other operations may be withdrawn whenever the appropriate TTB officer determines the conduct of the other operations on wine premises jeopardizes the revenue, conflicts with wine operations, or is contrary to law.

[T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

APPLICATION

### § 24.105 General.

A person desiring to establish a bonded winery, bonded wine cellar or taxpaid wine bottling house shall file an application on TTB F 5120.25, Application to Establish and Operate Wine Premises. Approval of TTB F 5120.25 will constitute authorization for the proprietor to operate. The premises may not be used for the conduct of operations under this part unless the proprietor has a valid approved application for the operations. The application will be executed under the penalties of perjury and all written statements, affidavits, and any document incorporated by reference will be considered a part of the application. In any instance where a bond is required to be given or a permit obtained to engage in an operation, the currently approved application will not be valid with respect to that operation if the bond or permit is no longer in effect. In this case, the proprietor shall again file an application and obtain approval before engaging in operations at the wine premises. A new application is not required when a strengthening bond is filed pursuant to § 24.153 or a new bond or superseding bond is filed pursuant to § 24.154. The appropriate TTB officer may require the filing of a new or an amended application in any instance where the currently approved application is inadequate or incorrect in any respect. (August 16, 1954, Ch. 736, 68A Stat. 749, as amended (26 U.S.C. 6065); sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.106 Basic permit requirements.

Any person intending to engage in the business of producing or blending wine or purchasing wine for resale at wholesale is required under the Federal Alcohol Administration Act, as amended (49 Stat. 978; 27 U.S.C. 203) to obtain a basic permit. A State, a political subdivision of a State, or officers or employees of a State or political subdivision acting in their official capacity are exempted from this requirement. The issuance of a basic permit under the Act is governed by regulations in 27 CFR part 1. Where a basic permit is required to engage in an operation, an application for a basic permit will be filed at the time of filing an original or amended application on TTB F 5120.25. Operations requiring a basic permit may not be conducted until the basic permit application is approved. No Wine Producer's and Blender's Basic Permit or Wine Blender's Basic Permit is required for a bonded wine cellar established only for the purpose of storing untaxpaid wine even though an approved application, TTB F 5120.25, and bond are required. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.107 Designation as a bonded winery.

Bonded wine premises which will be used for the production of wine or for production processes involving the use of wine will be designated a bonded winery unless the proprietor applies for a bonded wine cellar designation. If the proprietor of a bonded wine premises designated as a bonded winery does not engage in wine production operations, the appropriate TTB officer may notify the proprietor that the designation of

the premises is changed from a bonded winery to a bonded wine cellar. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.108 Bonded wine warehouse application.

A warehouse company or other person desiring to establish a bonded wine warehouse on bonded wine premises for storing wine or allied products for credit purposes shall file an application, in letter form, with the appropriate TTB officer. The name and address of the applicant and of the bonded wine premises, and the approximate area and storage capacity (in gallons) of the bonded wine warehouse, will be stated in the application. The application will be accompanied by a signed statement from the proprietor of the bonded wine premises requesting the establishment of the warehouse, and the consent of the surety of the bond for the bonded wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.109 Data for application.

The TTB F 5120.25 is prepared in accordance with the instructions on the form and will include the following, as applicable:

(a) Serial number;

(b) Name and principal business address of the applicant and the address of the wine premises if different from the business address;

(c) Statement of the type of business organization and of each person having an interest in the business, supported by the items of information listed in § 24.110;

(d) Indicate whether the application is for the purpose of establishing a bonded winery, bonded wine cellar, or taxpaid wine bottling house. Also, indicate whether a taxpaid wine premises is to be established if the application is for a bonded winery or bonded wine cellar;

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

(f) Description of the premises (see § 24.111);

(g) Trade names (see § 24.112);

(h) Description of spirits operations;

(i) With respect to wine premises to which the application relates, a list of the applicant's basic permits and bonds (including those filed with the application) showing the name of the surety for each bond;

(j) Description of volatile fruit-flavor concentrate operations (see § 24.113); and

(k) If other operations not specifically authorized by this part are to be conducted on wine premises, a description of the operations, a list of the premises, and a statement as to the relationship, if any, of the operation to wine operations on wine premises. If any of the information required by paragraph (c) of this section is on file with the appropriate TTB officer in connection with any other premises operated by the applicant, that information, if accurate and complete, may be incorporated by reference and made a part of the application. In this case, the name, address, and if any, registry number of the premises where the information is filed will be stated in the application. The applicant shall, when required by the appropriate TTB officer, furnish as part of the application, additional information as may be necessary to determine whether the application should be approved. If any of the submitted information changes during the pending application, the applicant shall immediately notify the appropriate TTB officer of the revised information. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5361, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.110 Organizational documents.

The supporting information required by paragraph (c) of § 24.109, includes, as applicable, copies of:

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

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

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

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

(b) *Articles of partnership.* True copies of the articles of partnership, if any, and of the certificate of partnership or association.

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

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

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section and additional documents that may be required by the appropriate TTB officer (such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations) must be made available to any appropriate TTB officer upon request. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999]

### § 24.111 Description of premises.

The application will include a description of each tract of land comprising wine premises. The description will be by directions and distances, in feet and inches (or hundredths of feet), with sufficient particularity to enable ready determination of the bounds of the wine premises. When required by the appropriate TTB officer, a diagram of the wine premises, drawn to scale, will be furnished. The description will clearly indicate any area of the wine premises to be used as bonded wine premises, used as taxpaid wine premises, or alternated for use as bonded wine premises and taxpaid wine premises. The means employed to afford security and protect the revenue will be described. If required by the appropriate TTB officer to segregate operations within the premises, the manner by which the operations are segregated will be described. Each building on wine premises will be described as to size, construction, and use. Buildings on wine premises which will not be used for wine operations will be described only as to size and use. If the wine premises consist of a part of a building, the rooms or floors will be separately described. The activities conducted in the adjoining portions of the building and the means of ingress and egress from the wine premises will be described. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5365))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.112 Name of proprietor and trade names.

The applicant shall list on the application, TTB F 5120.25, the proprietor's name or the operating trade name, if different than the proprietor's name,

and any bottling or packing trade names. However, if a bottling or packing trade name is listed on a basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat 978; 27 U.S.C. 204), that trade name is not required to be listed again on the application. If State or local law requires the registration of a trade name, the applicant shall certify that each trade name listed on the application is so registered. A trade name may not be used prior to approval of the application or issuance of a basic permit covering the use of the name. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.113 Description of volatile fruit-flavor concentrate operations.

Each applicant intending to produce volatile fruit-flavor concentrate shall include on the TTB F 5120.25 application a step-by-step description of the production procedure to be employed. The description will commence with the obtaining of juice from the fruit and continue through each step of the process to removal of volatile fruit-flavor concentrate from the system. If volatile fruit-flavor concentrate containing more than 24 percent alcohol (high-proof concentrates (essences)) is to be produced, the proprietor shall indicate any step in the production procedure at which any spirits may be fit for beverage purposes. The maximum quantity in gallons of fruit most used and volatile fruit-flavor concentrate produced in 24 hours, the maximum and minimum fold, and the maximum percent of alcohol in the volatile fruit-flavor concentrate will be stated for each kind of fruit used. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1392, as amended (26 U.S.C. 5356, 5361, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.114 Registry of stills.

Any still intended for use in the production of volatile fruit-flavor concentrate will be set up on bonded wine premises. Each still is subject to the provisions of subpart C of part 29 of this chapter and will be registered. The listing of a still in the application, and the approval of the application, will, as provided in 27 CFR 29.55, constitute registration. (Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended, 1379, as amended, 1392, as amended (26 U.S.C. 5179, 5356, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999; T.D. ATF–462, 66 FR 42737, Aug. 15, 2001]

### § 24.115 Registry number.

Upon approval of the application, the appropriate TTB officer will assign a registry number to the bonded winery, bonded wine cellar, or taxpaid wine bottling house. The registry number will be used in all correspondence and on all documents filed subsequently in connection with the operation of the premises and will be shown where required on labels and markings of containers or cases filled at the wine premises.

(Approved by the Office of Management and Budget under control numbers 1512–0058 and 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.116 Powers of attorney.

The proprietor shall file with the appropriate TTB officer a power of attorney for each person authorized to sign or to act on behalf of the proprietor as an attorney-in-fact. A power of attorney is not required for any person whose authority has been furnished in the application. If not limited in duration, the power of attorney will continue in effect until written notice of revocation is received by the appropriate TTB officer or operations are terminated.

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999]

### § 24.117 Maintenance of application file.

The proprietor shall maintain an application file with the information required by § 24.109 in complete and current condition, readily available at the wine premises for inspection by appropriate TTB officers. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356, 5367))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

### § 24.120 Amended application.

Where there is a change in any of the information included in the current approved application, the proprietor shall, within 30 days of the change (except as otherwise provided in this part), submit an amended application to the appropriate TTB officer and set forth the information necessary to make the application file accurate and current. Where the change affects only pages or parts of pages of the current application, as many complete pages as will enable the replacement of the pages affected and maintenance of the file as provided in § 24.117 will be submitted. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.121 Changes affecting permits.

The proprietor shall follow the provisions of 27 CFR part 1 to effect any change pertaining to a permit issued under the Federal Alcohol Administration Act. (49 Stat. 978; 27 U.S.C. 203).

### § 24.122 Change in name of proprietor or trade name.

Where there is to be a change in the name of the proprietor or operating trade name, the proprietor shall file an amended application and, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for amendment of the basic permit. Where there is a change in or addition of a trade name, the proprietor shall file an amended application or, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for amendment of the basic permit. Operations under a new name may not be conducted before approval of the amended application or issuance of an amended permit, as the case may be. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.123 Change in stockholders.

If there is a change in the list of stockholders furnished under the provisions of § 24.110(c)(1), the proprietor may, in lieu of submission within 30 days of the change under the provisions of § 24.120, submit a new list of stockholders annually on May 1, or any other approved date, to the appropriate TTB officer which has on file the list of stockholders, provided the sale or transfer of capital stock does not result in a change in the control or management of the business. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.124 Change in corporate officers.

Where there is any change in the list of corporate officers furnished under the provisions of § 24.110(a)(2), the proprietor shall submit, within 30 days of the change, an amended application supported by a new list of corporate officers and a statement of the changes reflected in the new list. Where the proprietor has shown that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the application, the appropriate TTB officer may waive the requirement for submitting an amended application to cover a change in those corporate officers. (Sec. 201, Pub. L. 85–859,

72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.125 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of wine premises qualified to operate under this part, the outgoing proprietor shall comply with the requirements of § 24.140, and the successor shall, before commencing operations, apply for and obtain any required permits, file any required bonds, and file an application for and receive permission to operate in the same manner as a person qualifying a new wine premises; however, the successor may, in the manner provided in § 24.127, adopt the approved formulas of the outgoing proprietor. Wine, spirits, and winemaking materials may be transferred from an outgoing proprietor to a successor in the manner provided in § 24.140.

(b) *Fiduciary.* A successor to the proprietorship of wine premises who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall, except as otherwise provided in this section, comply with the provisions of paragraph (a) of this section. However, in lieu of filing a new bond, if a bond is required, the fiduciary may furnish a consent of surety extending the terms of any bonds of the predecessor, and any pertinent information contained in the predecessor's application may be incorporated by reference. In addition, the fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing the appointment as such fiduciary. The effective date of the qualifying documents filed by a fiduciary will be the effective date of the court order, or the date specified for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date of assuming control will coincide with the effective date of the qualifying documents filed by the fiduciary.

(c) *Exception.* A fiduciary intending to liquidate the business conducted on wine premises, i.e., disposition of any wine and spirits on hand, including use of any cellar treatment necessary to put the wine in merchantable condition, who does not intend to produce wine, or use spirits, or receive wine in bond may be exempted from qualifying as the proprietor of the wine premises upon filing with the appropriate TTB officer a statement to that effect, a copy of a foreclosure action, or a copy of the court order directing the liquidation of the business, and, if the wine premises is covered by a bond, a consent of surety wherein the surety and the fiduciary agree to remain liable on the bond. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.126 Change in proprietorship involving a bonded wine warehouse.

Where a bonded wine warehouse has been established on wine premises and it is desired to continue the operation of the bonded wine warehouse subsequent to a change in the proprietorship of the bonded winery or bonded wine cellar, the proprietor of the bonded wine warehouse shall file a letter application, accompanied by an affirming statement from the new proprietor of the bonded winery or bonded wine cellar, requesting the continuation of the bonded wine warehouse and also file evidence of sufficient bond coverage. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.127 Adoption of formulas.

The adoption of approved formulas by a successor proprietor will be in the form of an application, filed with the appropriate TTB officer. The application will list the formulas for adoption by formula number, name of product, and date of approval. The application will clearly show that the outgoing proprietor has authorized the successor

proprietor's use of the approved formulas. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.128 Continuing partnerships.

If, under the laws of the particular State, the partnership is not terminated upon the death or insolvency of a partner but continues until the dissolution of the partnership is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the wine premises under the prior qualification of the partnership, provided a consent of surety is filed wherein the surety and the surviving partner agree to remain liable on any bond covering the bonded wine premises. A surviving partner who acquires the business on completion of the dissolution of the partnership shall qualify from the date of acquisition, as provided in § 24.125(a). The rule set forth in this section will also apply where there is more than one surviving partner. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.129 Change in location.

Where there is a change in the location of wine premises, the proprietor shall file an amended application and an application for amendment of the basic permit, if any, and if a bond has been filed, either a new bond or a consent of surety. Operation of wine premises may not be commenced at the new location prior to approval of the amended application and issuance of any amended permit. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.130 Change in volatile fruit-flavor concentrate operations.

If the proprietor desires to make any change in the process employed to produce volatile fruit-flavor concentrate and the change affects the accuracy of the description of process included in the application, the proprietor shall file an amended application to include the amended or new process. The new or changed process may not be used prior to approval of the amended application. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.131 Change in building construction and use of premises.

Where a change is to be made to buildings located on wine premises, or in the use of any portion of the wine premises, which affects the accuracy of the application, the proprietor shall, before making such change in construction or use, submit a notice to the appropriate TTB officer. The notice will describe the proposed change in detail. The proprietor shall include the change covered by the notice in the next amended TTB F 5120.25 required to be filed, unless the appropriate TTB officer requires immediate amendment. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

## ALTERNATION

### § 24.135 Wine premises alternation.

(a) *General.* The proprietor of a bonded winery or bonded wine cellar may alternate all or a portion of wine premises for use as a taxpaid wine bottling house or use as taxpaid wine premises. The proprietor may also alternate the use of adjacent or contiguous premises qualified under 26 U.S.C. chapter 51 (distilled spirits plant, brewery, etc.) for use as wine premises or *vice versa.* If a proprietor of a bonded wine cellar or winery wishes to use all or a portion of

such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of §§ 18.40 through 18.43 of this title.

(b) *Qualifying documents.* Where the proprietor desires to alternate bonded wine premises as taxpaid wine bottling house premises or taxpaid wine premises, or other premises qualified under 26 U.S.C. chapter 51, the following qualifying documents will be filed:

(1) A statement on the application TTB F 5120.25 that an alternation of wine premises will occur;

(2) Evidence of existing bond, consent of surety, or a new bond covering the alternation;

(3) A description of how taxpaid wine or spirits, or untaxpaid wine or spirits will be identified and segregated; and

(4) Any other document or additional information the appropriate TTB officer may require.

(c) *Alternation.* After the necessary qualifying documents have been approved by the appropriate TTB officer, the proprietor may alternate wine premises as described in the application. Any portion of wine premises on which taxpaid wine is located will be considered taxpaid wine premises or taxpaid wine bottling house premises and any portion of the premises on which wine not identified as taxpaid is located will be considered bonded wine premises. The proprietor shall, prior to the initial alternation of the premises, identify by portable signs or tags, or by any other method or manner satisfactory to the appropriate TTB officer, either all taxpaid wine on taxpaid wine premises or taxpaid wine bottling house premises or all untaxpaid wine on bonded wine premises.

(d) *Segregation.* The proprietor shall keep untaxpaid wine or spirits physically separated from taxpaid wine or spirits and on the designated premises. This separation will be by use of tanks, rooms, buildings, partitions, pallet stacks, or complete physical separation, or by any other method or manner which will clearly and readily distinguish untaxpaid wine or spirits from taxpaid wine or spirits and is satisfactory to the appropriate TTB officer. Where necessary for the protection of the revenue or enforcement of 26 U.S.C. chapter 51, the appropriate TTB officer may require that the portions of wine premises alternated under this section be separated by partitions or otherwise.

(e) *Conditions.* Authority for the alternation of bonded wine premises, taxpaid wine bottling house premises, taxpaid wine premises, or other premises qualified under 26 U.S.C chapter 51 is conditioned on compliance by the proprietor with the provisions of this section. Authority for the alternation of bonded wine premises, taxpaid wine bottling house premises, taxpaid wine premises, or other premises qualified under 26 U.S.C. chapter 51 may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5363, 5365, 5367))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999; T.D. ATF–455, 66 FR 29483, May 31, 2001]

### § 24.136 Procedure for alternating proprietors.

(a) *General.* Wine premises, or parts thereof, may be operated alternately by proprietors who have each filed and received approval of the necessary applications and bonds and have qualified under the provisions of this part. Where operations by alternating proprietors are limited to parts of the wine premises, the application will describe areas, buildings, floors, or rooms which will be alternated and will be accompanied by a diagram delineating the parts of the wine premises to be alternated. A separate diagram will be submitted to depict each arrangement under which the wine premises will be operated. Once the qualifying documents have been approved, and operations initiated, the wine premises, or parts thereof, may be alternated. Any transfer of wine, spirits, or other accountable materials from one proprietor to the other proprietor will be indicated in the records and reports of each proprietor. Operation of a bonded

winery engaged in the production of wine by an alternate proprietor will be at least one calendar day in length.

(b) *Alternation.* All operations in any area, building, floor, or room to be alternated will be completely finished and all wine, spirits, and other accountable materials will be removed from the alternated wine premises or transferred to the incoming proprietor. However, wine, spirits, and other accountable materials may be retained in locked tanks at wine premises to be alternated and remain in the custody of the outgoing proprietor.

(c) *Bonds.* The outgoing proprietor who has filed bond and intends to resume operation of the alternated areas, buildings, floors, or rooms following suspension of operations by an alternating proprietor shall execute a consent of surety to continue in effect all bonds. Where wine, spirits, or other accountable materials subject to tax under 26 U.S.C. chapter 51 are to be retained in tanks on the wine premises to be alternated, the outgoing proprietor shall also execute a consent of surety to continue the liability of all bonds for the tax on the materials, notwithstanding the change in proprietorship.

(d) *Records.* Each proprietor shall maintain separate records and submit a separate TTB F 5120.17, Report of Bonded Wine Premises Operations. All transfers of wine, spirits, and other accountable materials will be reflected in the records of each proprietor. Each proprietor shall maintain a record showing the name and registry number of the incoming or outgoing proprietor, the effective date and hour of alternation, and the quantity in gallons and the percent alcohol by volume or proof of any wine, spirits, or other accountable materials transferred or received. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5351, 5352, 5354, 5356, 5361, 5362, 5363, 5367, 5373))

(Approved by the Office of Management and Budget under control numbers 1512–0058, 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.137 Alternate use of the wine premises for customs purposes.

(a) *General.* The wine premises may be alternated as a Customs Bonded Warehouse under applicable customs laws and regulations, for the purpose of measuring, gauging, and bottling or packing wine. The use of the portion of the wine premises alternated as a Customs Bonded Warehouse is subject to the approval of the district director of customs and the appropriate TTB officer. When it is necessary to convey wine in customs custody across bonded wine premises, the proprietor shall comply with the provisions of § 24.92.

(b) *Qualifying documents.* Where the proprietor desires to alternate a portion of wine premises for customs use, the following qualifying documents will be filed:

(1) TTB F 5120.25 to cover the alternation;

(2) A diagram clearly depicting any area, building, floor, room or major equipment in use during the alternation; and

(3) Any other documents or additional information the appropriate TTB officer may require.

(c) *Alternation.* After approval of the qualifying documents by the appropriate TTB officer, the proprietor may alternate the wine premises. Portions of the wine premises to be excluded by curtailment or included by extension may not be used for purposes other than those authorized. Prior to the effective date and hour of the alternation, the proprietor shall remove all wine and spirits from the portion of the wine premises to be alternated for customs purposes. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5365, 5367))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993; T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999]

## PERMANENT DISCONTINUANCE OF OPERATIONS

### § 24.140 Notice.

(a) *General.* Where all or part of the operations at a wine premises are to be

permanently discontinued, the proprietor shall file with the appropriate TTB officer a notice in letter form to cover the discontinuance. The proprietor shall state in the notice the date on which operations will be discontinued and, if the wine premises are to be transferred to a successor proprietor, the name of the successor proprietor. Any basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203) for the operation discontinued will be submitted to the appropriate TTB officer with a written request for cancellation.

(b) *Bonded wine premises.* The proprietor shall certify in the notice, as applicable, that:

(1) All wine, spirits, or volatile fruit-flavor concentrate have been lawfully removed from bonded wine premises, destroyed, or transferred to a successor as of the effective date of discontinuance,

(2) No wine, spirits, or volatile fruit-flavor concentrate are in transit to bonded wine premises, and

(3) All approved applications covering the transfer of spirits to bonded wine premises have been returned to the appropriate TTB officer.

The proprietor shall submit a report marked ''Final'' on the TTB F 5120.17, Report of Bonded Wine Premises Operations. Any wine, spirits, or volatile fruit-flavor concentrate transferred to a successor will be identified as ''Transferred to successor'' on the report and identified as ''Received from predecessor'' on the initial report filed by the successor.

(c) *Taxpaid wine bottling house premises or Taxpaid wine premises.* The proprietor shall certify in the notice that all taxpaid United States or foreign wine on hand have been disposed of, or if not yet disposed of, the manner of disposition and the time period in which the disposition will occur. The proprietor shall include taxpaid United States wine on the TTB F 5120.17 report marked ''Final.'' Any United States taxpaid wine transferred to a successor will be identified as ''Transferred to successor'' on the report and identified as ''Received from predecessor'' on the initial report filed by the successor. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control numbers 1512–0058 and 1512–0216)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.141 Bonded wine warehouse.

Where all operations at a bonded wine warehouse are to be permanently discontinued, the warehouse proprietor shall file with the appropriate TTB officer a notice in letter form to cover the discontinuance. The warehouse proprietor shall state in the notice the name, registry number, and address of the wine premises on which the warehouse facilities are located and the date on which operations of the bonded wine warehouse will be discontinued. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## BONDS AND CONSENTS OF SURETY

### § 24.145 General requirements.

Each person required to file a bond or consent of surety under this part must prepare, execute and submit the bond or consent of surety on the prescribed form in accordance with this part and the instructions printed on the form. A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part with respect to the business or operation have been approved by the appropriate TTB officer. (Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.146 Bonds.

(a) *Wine bond.* The proprietor shall give bond on TTB F 5120.36, Wine Bond, to cover the liability for excise taxes

imposed by the Internal Revenue Code of 1986, on wines produced or received by the proprietor. This includes liability for special occupational taxes and penalties and interest. The bond will apply to wine, spirits, and volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C. chapter 51, in transit to or on bonded wine premises, and to the operations of the bonded wine premises, whether the transaction or operation on which the proprietor's liability is based occurred on or off the proprietor's premises. The bond will provide that the proprietor shall faithfully comply with all provisions of law and regulation relating to activities covered by the bond. This bond has a tax obligation limit of $500 for wine removed from bonded wine premises on which the tax has been determined, but not paid, unless the total penal sum of the operations bond is $2,000 or more and the proprietor and the surety designate $1,000 of this amount as the obligation limit for wine on which the tax has been determined, but not paid.

(b) *Tax deferral bond.* Where the proprietor removes wine from bonded wine premises for consumption or sale, after determination and before payment of tax, and the tax unpaid at any one time amounts to more than $500, the proprietor shall, in addition to any other bond required by this part, furnish a tax deferral bond on TTB F 5120.36, Wine Bond, to ensure payment of the tax on the wine. Under the conditions provided in paragraph (a) of this section, this amount may be changed to $1,000 by the terms of the bond or through a consent of surety between the proprietor and the surety. The tax deferral bond and the wine bond may be submitted on the same TTB F 5120.36.

(c) *Wine vinegar plant bond.* The proprietor of a wine vinegar plant who withdraws wine from a bonded wine premises without payment of tax for use in the manufacture of vinegar shall file a bond on TTB F 5510.2, Bond Covering Removal to and Use of Wine at Vinegar Plant, to ensure the payment of the tax on the wine until such wine becomes vinegar. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.147 Operations bond or unit bond.

Notwithstanding the provisions of § 24.146, each person intending to commence or to continue business as the proprietor of a bonded wine premises with an adjacent or contiguous distilled spirits plant qualified under 27 CFR part 19 for the production of distilled spirits shall, in lieu of a winery bond and the bonds required under the provisions of 26 U.S.C. 5173, as amended, give an operations bond or unit bond in accordance with the applicable provisions of 27 CFR part 19. (Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.148 Penal sums of bonds.

The penal sums of bonds prescribed in this part are as follows:

| Bond | Basis | Penal sum | |
|---|---|---|---|
| | | Minimum | Maximum |
| (a) Wine Bond, TTB F 5120.36 | (1) Wine operations coverage. (i) Not less than the tax on all wine or spirits possessed, in transit, or unaccounted for at any one time, taking into account the appropriate small producer wine tax credit. | $1,000 | $50,000 |
| | (ii) Where the liability exceeds $250,000 | ..... | 100,000 |

| Bond | Basis | Penal sum | |
|---|---|---|---|
| | | Minimum | Maximum |
| | (2) Tax deferral coverage. Where the unpaid tax amounts to more than $500, not less than the amount of tax which, at any one time, has been determined but not paid. Exception: $1,000 of the wine operations coverage may be allocated to cover the amount of tax which, at any one time, has been determined but not paid, if the total operations coverage is $2,000 or more. | 500 | 250,000 |
| (b) Wine Vinegar Plant Bond, TTB F 5510.2. | Not less than the tax on all wine on hand, in transit, or unaccounted for at any one time. | 1,000 | 100,000 |

*The proprietor of bonded wine premises who operates an adjacent or contiguous wine vinegar plant with a wine bond that does not cover the operation may file a consent of surety to extend the terms of the wine bond in lieu of filing a wine vinegar plant bond.

(26 U.S.C. 5354, 5362)

(Approved by the Office of Management and Budget under control number 1513–0009)

[T.D. TTB–64, 72 FR 65454, Nov. 21, 2007]

### § 24.149 Corporate surety.

(a) Surety bonds required by this part may be obtained only from corporate sureties which hold certificates of authority from and are subject to the limitations prescribed by the Secretary as set forth in the current revision of Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER yearly on the first working day in July. As revisions of the circular occur, the revisions are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Financial Management Service, Department of the Treasury, Washington, DC 20226. (July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

### § 24.150 Powers of attorney.

Each bond, and each consent to changes in the terms of a bond, will be accompanied by a power of attorney whereby the surety authorizes the agent or officer who executed the bond or consent to act on behalf of the surety. The appropriate TTB officer may require additional evidence of the authority of the agent or officer of the surety to execute the bond or consent. The power of attorney will be prepared on a form provided by the surety and executed under the corporate seal of the surety. If the power of attorney is other than a manually signed original, the appropriate TTB officer may require a certification of validity. (July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 648, as amended (26 U.S.C. 6, 7))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.151 Deposit of collateral security.

(a) Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited as collateral security in lieu of corporate sureties in accordance with the provisions of Treasury Department Circular No. 154 (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). Cash, postal money orders, certified checks, cashiers' checks, or treasurers' checks may also be furnished as collateral security in lieu of corporate sureties.

(b) Treasury Department Circular No. 154 is periodically revised and contains the provisions of 31 CFR part 225 and the forms prescribed in 31 CFR part 225. Copies of the circular may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226. (July 30, 1947, Ch. 390, 61 Stat. 650 (6 U.S.C. 15); August 16, 1954, Ch. 736, 68A Stat. 847, as amended (26 U.S.C. 7101))

### § 24.152 Consents of surety.

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

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.153 Strengthening bonds.

In any instance where the penal sum of the bond on file 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 covering the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Strengthening bonds will show the current date of execution and the effective date. (Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.154 New or superseding bonds.

When, in the opinion of the appropriate TTB officer, the interests of the Government demand it, or in any case where the validity of the bond becomes impaired in whole or in part for any reason, the principal will be required to give a new bond. A new bond will be required immediately in the case of the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, to continue or to liquidate the business of the principal, will execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When under the provisions of § 24.157 the surety has filed an application to be relieved of liability under any bond given under this part and the principal desires or intends to continue business or operations to which the bond relates, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds will show the current date of execution and the effective date. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1394, as amended (26 U.S.C. 5354, 5362, 5551))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.155 Disapproval and appeal from disapproval.

(a) *Disapproval.* The appropriate TTB officer may disapprove any bonded wine premises bond or consent of surety if the individual, firm, partnership, corporation, or association giving the bond, or owning, controlling, or actively participating in the management of the bonded wine premises of the individual, firm, partnership, corporation, or association giving the bond, has been previously convicted in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of any law of the United States, if such provision relates to internal revenue or customs taxation of distilled spirits, wine, or beer, or if such offense has been compromised with the person on payment of penalties or otherwise, or

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

(b) *Appeal from disapproval.* Where a bond or consent of surety is disapproved by the appropriate TTB officer, the person giving the bond may appeal the disapproval to the Administrator. The decision of the Administrator will be final. (Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.156 Termination of bonds.

A bond prescribed in § 24.146 may be terminated as to future liability pursuant to application by the surety as provided in § 24.157; pursuant to approval of a superseding bond; upon receipt of notification from the principal that the business has been discontinued and all wine and spirits have been removed from the bonded wine premises as provided in § 24.140(b); or in the case of a tax deferral bond, the termination will be issued upon receipt of written notification from the principal that removals of wine requiring a tax deferral bond have been discontinued. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5354))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.157 Application by surety for relief from bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the appropriate TTB officer in whose office the bond is on file, that it desires after a specified date, to be relieved of liability under the bond. The date may not be less than 10 days after the date notice is received by the appropriate TTB officer in the case of a tax deferral bond, and not less than 90 days after the date the notice is received in the case of a bonded wine premises bond or wine vinegar plant bond. The surety will also file with the appropriate TTB officer an acknowledgment, or other evidence of service, of a notice on the principal. The 10 day or 90 day period does not commence until both the acknowledgment or other evidence of service and the notice are filed. If a notice is not thereafter withdrawn in writing, the rights of the principal as supported by the bond will be terminated on the date specified in the notice, and the surety will be relieved from liability to the extent set forth in § 24.158. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.158 Extent of relief.

(a) *General.* The surety on any bond required by this part who has filed a notice for relief from liability as provided in § 24.157 will be relieved from liability under bond as set forth in this section.

(b) *Wine bond.* Where a new or superseding bond is filed, the surety of the existing bond will be relieved of future liability with respect to wine, spirits, volatile fruit-flavor concentrate, or any other commodities subject to tax under 26 U.S.C. chapter 51 on hand or in transit to bonded wine premises on or after the effective date of the new or superseding bond. Notwithstanding such relief, the surety will remain liable for the tax on all wine or volatile fruit-flavor concentrate produced at, and for wine, spirits, and volatile fruit-flavor concentrate consigned to, the bonded wine premises, and for all other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety will, in addition to the continuing liabilities specified above, remain liable for all wine, spirits, volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C. chapter 51 on hand or in transit to bonded wine premises on the date specified in the notice, until all the wine, spirits, volatile fruit-flavor concentrate, or commodities subject to tax under 26 U.S.C. chapter 51 have been lawfully disposed of, or a new bond has been filed covering the liability.

(c) *Tax deferral bond.* The surety will be relieved of liability for the tax on any wine removed from the bonded wine premises after the date specified in the notice. The surety will continue to be liable for the tax on wine removed for consumption or sale on or before the date specified in the notice, until all tax is fully paid.

(d) *Wine vinegar plant bond.* The surety will be relieved of liability for tax on wine withdrawn for the manufacture of vinegar after the date specified in the notice. The surety will continue to be liable for the tax on wine withdrawn on or before the date specified in the notice, until all wine is fully accounted for. (Sec. 201, Pub. L. 85–859, 72

Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

(Approved by the Office of Management and Budget under control number 1512–0058)

### § 24.159 Release of collateral security.

Collateral security pledged and deposited will be released only in accordance with the provisions of 31 CFR part 225. The collateral security will not be released by the appropriate TTB officer until liability under the bond for which it was pledged has been terminated. If satisfied that the interests of the Government will not be jeopardized, the appropriate TTB officer will fix the date or dates on which a part or all of the collateral security may be released. At any time prior to the release of the collateral security, the appropriate TTB officer may, for proper cause, extend the date of release of the security for such additional length of time as deemed appropriate. (July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## Subpart E—Construction and Equipment

### § 24.165 Premises.

Wine premises will be located, constructed, and equipped, subject to approval by the appropriate TTB officer, in a manner suitable for the operations to be conducted and to afford adequate protection to the revenue. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5351, 5352, 5357, 5361, 5363))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.166 Buildings or rooms.

All buildings or rooms on wine premises in which wine operations or other operations as are authorized in this part are conducted will be located, constructed, and equipped in a manner suitable for the intended purpose and to afford adequate protection to the revenue. Each building or room will be constructed of substantial materials and separated from adjacent or contiguous buildings, rooms, or designated areas in a manner satisfactory to the appropriate TTB officer. Where spirits are to be received and stored in packages, a storage room equipped for locking will be provided. The proprietor shall make provisions to assure TTB officers have ready ingress to and egress from any building or room on wine premises, and shall furnish at the request of the appropriate TTB officer evidence that the means of ingress and egress by TTB officers are assured. Where the appropriate TTB officer finds that any building or room on wine premises is located, constructed, or equipped as to afford inadequate protection to the revenue, the proprietor will be required to make changes in location, construction, or equipment to the extent necessary to afford adequate protection to the revenue. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.167 Tanks.

(a) *General.* All tanks on wine premises used for wine operations or for other operations as are authorized in this part will be suitable for the intended purpose. Each tank used for wine operations will be located, constructed, and equipped as to permit ready examination and a means of accurately determining the contents. Any tank used for wine operations not enclosed within a building or room will be enclosed within a secure fence unless the premises where the tank is located are enclosed by a fence or wall, or all tank openings are equipped for locking and are locked when used for wine operations and there is no proprietor's representative on the wine premises, or the appropriate TTB officer has approved some other adequate means of revenue protection. All open tanks will be under a roof or other suitable covering.

(b) *Other requirements.* Each tank used for the taxpayment of wine, storage of spirits, or spirits additions will be constructed and equipped as follows:

(1) An accurate means of measuring the contents of each tank will be provided by the proprietor. When a means of measuring is not a permanent fixture of the tank, the tank will be equipped with a fixed device to allow the approximate contents to be determined readily;

(2) Safe access to all parts of a tank will be provided by the proprietor;

(3) Tanks may not be used until they are accurately calibrated and a statement of certification of accurate calibration is on file at the premises;

(4) If a tank or its means of measuring is changed as to location or position subsequent to original calibration, the tank may not be used until recalibrated; and

(5) All openings in tanks used for the storage, weighing, or measuring of spirits, or for the addition of spirits to wine, will be equipped for locking or have a similar means of revenue protection. Any vents, flame arrestors, foam devices, or other safety devices affixed to a spirits tank will be constructed to prevent extraction of the contents of the tank. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1395, as amended (26 U.S.C. 5352, 5357, 5552))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.168 Identification of tanks.

(a) *General.* Each tank, barrel, puncheon, or similar bulk container, used to ferment wine or used to process or store wine, spirits, or wine making materials will have the contents marked and will be marked as required by this section.

(b) *Tank markings.* (1) Each tank will have a unique serial number;

(2) Each tank will be marked to show its current use, either by permanent markings or by removable signs of durable material; and

(3) If used to store wine made in accordance with a formula, the formula number will be marked or otherwise indicated on the tank.

(c) *Puncheon and barrel markings.* Puncheons and barrels, or similar bulk containers over 100 gallons capacity, will be marked in the same manner as tanks. A permanent serial number need not be marked on puncheons and barrels, or similar bulk containers of less than 100 gallons capacity, used for storage, but the capacity will be permanently marked. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357))

(Approved by the Office of Management and Budget under control number 1512–0503)

### § 24.169 Pipelines.

Pipelines, including flexible hoses, used to convey wine, spirits, or volatile fruit-flavor concentrate will be constructed, connected, arranged, and secured so as to afford adequate protection to the revenue and to permit ready examination. The appropriate TTB officer may approve pipelines which cannot be readily examined if no jeopardy to the revenue is created. (Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1395, as amended (26 U.S.C. 5352, 5357, 5552))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.170 Measuring devices and testing instruments.

(a) *Measuring devices.* The appropriate TTB officer may at any time require proprietors to provide at their own expense equipment for ascertaining the capacity and contents of tanks and other storage containers, and scales and measuring devices for weighing and measuring wine, spirits, volatile fruit-flavor concentrate, or materials received and used in the production or treatment of wine. Where winemaking materials or other materials used in the treatment of wine are used immediately upon receipt on wine premises, or received and stored on bonded wine premises in original sealed shipping containers with a stated capacity, the quantity shown on the commercial invoice or other document covering the shipment may be accepted by the proprietor and entered into records in lieu

of measuring the materials upon receipt.

(b) *Testing instruments.* The proprietor shall have ready access to equipment for determining the alcohol content unless the proprietor only receives and stores on wine premises bottled or packed wine with evidence showing the alcohol content has been determined. The proprietor who bottles or packs wine shall have ready access to equipment for determining the net contents of bottled or packed wine. The appropriate TTB officer may require other testing instruments based upon the proprietor's operations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1395, as amended (26 U.S.C. 5357, 5552))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## Subpart F—Production of Wine

### § 24.175 General.

The kinds of wine which may be produced on bonded wine premises are as follows:

(a) Natural wine produced in accordance with subparts F and G of this part;

(b) Special natural wine produced in accordance with subpart H of this part;

(c) Agricultural wine produced in accordance with subpart I of this part; and

(d) Other than standard wine produced in accordance with subpart J of this part. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1383, as amended, 1384, as amended, 1385, as amended, 1386, as amended (26 U.S.C. 5361, 5382, 5384, 5385, 5386, 5387))

### § 24.176 Crushing and fermentation.

(a) *Natural wine production.* Water may be used to flush equipment during the crushing process or to facilitate fermentation but the density of the juice may not be reduced below 22 degrees Brix. However, if the juice is already less than 23 degrees Brix, the use of water to flush equipment or facilitate fermentation is limited to a juice density reduction of no more than one degree Brix. At the start of fermentation no material may be added except water, sugar, concentrated fruit juice from the same kind of fruit, malo-lactic bacteria, yeast or yeast cultures grown in juice of the same kind of fruit, and yeast foods, sterilizing agents, precipitating agents or other approved fermentation adjuncts. Water may be used to rehydrate yeast to a maximum to two gallons of water for each pound of yeast; however, except for an operation involving the preparation of a yeast culture starter and must mixture for later use in initiating fermentation, the maximum volume increase of the juice after the addition of rehydrated yeast is limited to 0.5 percent. After fermentation natural wines may be blended with each other only if produced from the same kind of fruit.

(b) *Determination of wine produced.* Upon completion of fermentation or removal from the fermenter, the volume of wine will be accurately determined, recorded and reported on TTB F 5120.17, Report of Bonded Wine Premises Operations, as wine produced. Any wine or juice remaining in fermentation tanks at the end of the reporting period will be recorded and reported on TTB F 5120.17.

[T.D. ATF–312, 56 FR 31078, July 9, 1990, as amended by ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.177 Chaptalization (Brix adjustment).

In producing natural grape wine from juice having a low sugar content, pure dry sugar or concentrated grape juice may be added before or during fermentation to develop alcohol. In producing natural fruit wine from juice having a low sugar content, sugar, or concentrated juice of the same kind of fruit may be added before or during fermentation to develop alcohol. The quantity of sugar or concentrated juice added may not raise the original density of the juice above 25 degrees Brix. If grape juice or grape wine is ameliorated after chaptalization, the quantity of pure dry sugar added to juice for chaptalization will be included as ameliorating material. If fruit juice or fruit wine is ameliorated after chaptalization, pure dry sugar added under this section is not considered as

ameliorating material. However, if fruit juice or fruit wine is ameliorated after chaptalization and liquid sugar or invert sugar syrup is used to chaptalize the fruit juice, the volume of water contained in the liquid sugar or invert sugar syrup will be included as ameliorating material. (Sec. 201, Pub. L. 85–859, 72 Stat. 1385, as amended (26 U.S.C. 5382, 5384))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991; T.D. ATF–413, 64 FR 46844, Aug. 27, 1999]

### § 24.178 Amelioration.

(a) *General.* In producing natural wine from juice having a fixed acid level exceeding 5.0 grams per liter, the winemaker may adjust the fixed acid level by adding ameliorating material (water, sugar, or a combination of both) before, during and after fermentation. The fixed acid level of the juice is determined prior to fermentation and is calculated as tartaric acid for grapes, malic acid for apples, and citric acid for other fruit. Each 20 gallons of ameliorating material added to 1,000 gallons of juice or wine will reduce the fixed acid level of the juice or wine by 0.1 gram per liter (the fixed acid level of the juice or wine may not be less than 5.0 gram per liter after the addition of ameliorating material).

(b) *Limitations.* (1) Amelioration is permitted only at the bonded wine premises where the natural wine is produced.

(2) The ameliorating material added to juice or wine may not reduce the fixed acid level of the ameliorated juice or wine to less than 5.0 grams per liter.

(3) For all wine, except for wine described in paragraph (b)(4) of this section, the volume of ameliorating material added to juice or wine may not exceed 35 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). Where the starting fixed acid level is or exceeds 7.69 grams per liter, a maximum of 538.4 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice.

(4) For wine produced from any fruit (excluding grapes) or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry), the volume of ameliorating material added to juice or wine may not exceed 60 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). If the starting fixed acid level is or exceeds 12.5 grams per liter, a maximum of 1,500 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice. (26 U.S.C. 5383, 5384).

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–403, 64 FR 50253, Sept. 16, 1999; T.D. ATF–458, 66 FR 37578, July 19, 2001]

### § 24.179 Sweetening.

(a) *General.* In producing natural wine, sugar, juice or concentrated fruit juice of the same kind of fruit may be added after fermentation to sweeten wine. When juice or concentrated fruit juice is added, the solids content of the finished wine may not exceed 21 percent by weight. When liquid sugar or invert sugar syrup is used, the resulting volume may not exceed the volume which would result from the maximum use of pure dry sugar only.

(b) *Grape wine.* Any natural grape wine of a winemaker's own production may have sugar added after amelioration and fermentation provided the finished wine does not exceed 17 percent total solids by weight if the alcohol content is more than 14 percent by volume or 21 percent total solids by weight if the alcohol content is not more than 14 percent by volume.

(c) *Fruit wine.* Any natural fruit wine of a winemaker's own production may have sugar added after amelioration and fermentation provided the finished wine does not exceed 21 percent total solids by weight and the alcohol content is not more than 14 percent by volume.

(d) *Specially sweetened natural wine.* Specially sweetened natural wine is produced by adding to natural wine of the winemaker's own production sufficient pure dry sugar, juice or concentrated fruit juice of the same kind of fruit, separately or in combination, so that the finished product has a total solids content between 17 percent and 35 percent by weight, and an alcohol content of not more than 14 percent by volume. Natural wine containing added wine spirits may be used in the production of specially sweetened natural

wine; however, wine spirits may not be added to specially sweetened natural wine. Specially sweetened natural wines may be blended with each other, or with natural wine or heavy bodied blending wine (including juice or concentrated fruit juice to which wine spirits have been added), in the further production of specially sweetened natural wine only if the wines (or juice) so blended are made from the same kind of fruit. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended, 1384, as amended, 1385, as amended, 1386, as amended (26 U.S.C. 5382, 5383, 5384, 5385))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991]

### § 24.180 Use of concentrated and unconcentrated fruit juice.

Concentrated fruit juice reduced with water to its original density, or to 22 degrees Brix, or to any degree of Brix between its original density and 22 degrees Brix, and unconcentrated fruit juice reduced with water to not less than 22 degrees Brix, is considered juice for the purpose of standard wine production. Concentrated fruit juice reduced with water to any degree of Brix greater than 22 degrees Brix may be further reduced with water to any degree of Brix between its original density and 22 degrees Brix. The proprietor, prior to using concentrated fruit juice in wine production, shall obtain a statement in which the producer certifies the kind of fruit from which it was produced and the total solids content of the juice before and after concentration. Concentrated or unconcentrated fruit juice may be used in juice or wine made from the same kind of fruit for the purposes of chaptalizing or sweetening, as provided in this part. Concentrated fruit juice, or juice which has been concentrated and reconstituted, may not be used in standard wine production if at any time it was concentrated to more than 80 degrees Brix. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

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[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–413, 64 FR 46845, Aug. 27, 1999]

### § 24.181 Use of sugar.

Only sugar, as defined in § 24.10, may be used in the production of standard wine. The quantity of sugar used will be determined either by measuring the increase in volume or by considering that each 13.5 pounds of pure dry sugar results in a volumetric increase of one gallon. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended, 1384, as amended, 1385, as amended, 1387, as amended (26 U.S.C. 5382, 5383, 5384, 5392))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991]

### § 24.182 Use of acid to correct natural deficiencies.

(a) *General.* Acids of the kinds occurring in grapes or other fruit (including berries) may be added within the limitations of § 24.246 to juice or wine in order to correct natural deficiencies; however, no acid may be added to juice or wine which is ameliorated to correct natural deficiencies except that in the production of grape wine, tartaric acid may be used to reduce the pH of the juice or wine. If tartaric acid is used to correct the pH of grape juice or wine, the fixed acid level of the juice shall be measured prior to the addition of any tartaric acid to determine the maximum quantity of ameliorating material allowed. In addition, when using tartaric acid to reduce the pH of ameliorated grape juice or wine, the pH cannot be reduced below 3.0.

(b) *Grape wine.* Tartaric acid or malic acid, or a combination of tartaric acid and malic acid, may be added prior to or during fermentation, to grapes or juice from grapes. In addition, after fermentation is completed, citric acid, fumaric acid, malic acid, lactic acid or tartaric acid, or a combination of two or more of these acids, may be added to correct natural deficiencies. However, the use of these acids, either prior to, during or after fermentation, may not increase the fixed acid level of the finished wine (calculated as tartaric acid) above 9.0 grams per liter. In cases where the wine contains 8.0 or more grams of total solids per 100 milliliters of wine, acids may be added to the extent that the finished wine does not contain more than 11.0 grams per liter

of fixed acid (calculated as tartaric acid).

(c) *Fruit wine.* Only citric acid may be added to citrus fruit, juice or wine, only malic acid may be added to apples, apple juice or wine, and only citric acid or malic acid may be added to other fruit (including berries) or to juice or wine derived from other fruit (including berries) to correct natural deficiencies to 9.0 grams per liter of finished wine; however, if the wine contains 8.0 or more grams of total solids per 100 milliliters of wine, acids may be added to correct natural deficiencies to the extent that the finished wine does not contain more than 11.0 grams per liter of fixed acid (calculated as malic acid for apples and citric acid for other fruit (including berries).

(d) *Other use of acid.* A winemaker desiring to use an acid other than the acids allowed in paragraphs (a) and (b) of this section to correct natural deficiencies shall follow the procedure prescribed in § 24.250. A winemaker desiring to use acid to stabilize standard wine shall follow the requirements prescribed by § 24.244. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991; T.D. ATF–350, 58 FR 52230, Oct. 7, 1993]

### § 24.183 Use of distillates containing aldehydes.

Distillates containing aldehydes may be received on wine premises for use in the fermentation of wine and then returned to the distilled spirits plant from which distillates were withdrawn as distilling material. Distillates produced from one kind of fruit may not be used in the fermentation of wine made from a different kind of fruit. Distillates containing aldehydes which are received at bonded wine premises and not immediately used will be placed in a locked room or tank on bonded wine premises. Distillates containing aldehydes may not be mingled with wine spirits. If the distillates contain less than 0.1 percent of aldehydes, the proprietor shall comply with any additional condition relating to the receipt, storage, and use which the appropriate TTB officer may require to assure that the distillates are properly used and accounted for. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5373))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.184 Use of volatile fruit-flavor concentrate.

(a) *General.* In the cellar treatment of natural wine of the winemaker's own production there may be added volatile fruit-flavor concentrate produced from the same kind of fruit or from the same variety of berry or grape so long as the proportion of volatile fruit-flavor concentrate added to the wine does not exceed the equivalent proportion of volatile fruit-flavor concentrate of the original juice or must from which the wine was produced.

(b) *Use of juice or must from which volatile fruit-flavor has been removed.* Juice, concentrated fruit juice, or must processed at a concentrate plant is considered to be pure juice, concentrated fruit juice, or must even though volatile fruit-flavor has been removed if, at a concentrate plant or at bonded wine premises, there is added to the juice, concentrated fruit juice, or must (or in the case of bonded wine premises, to wine of the winemaker's own production made therefrom), either the identical volatile fruit-flavor removed or an equivalent quantity of volatile fruit-flavor concentrate derived from the same kind of fruit or from the same variety of berry or grape.

(c) *Certificate required.* The proprietor, prior to the use of volatile fruit flavor concentrate in wine production, shall obtain a certificate from the producer stating the kind of fruit or the variety of berry or grape from which it was produced and the total solids content of the juice before and after concentration. (Sec. 201. Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

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## Subpart G—Production of Effervescent Wine

### § 24.190 General.

Effervescent wine may be made on bonded wine premises. Where the effervescence results from fermentation of the wine within a closed container, the wine is classed and taxed as sparkling wine. The use of carbon dioxide, nitrogen gas, or a combination of both, is permitted to maintain counterpressure during the transfer and bottling of sparkling wine. Wine carbonated by injection of carbon dioxide is classed and taxed as artificially carbonated wine. Sparkling wine, artificially carbonated wine, and any wine used as a base in the production of sparkling wine or artificially carbonated wine, may not have an alcohol content in excess of 14 percent by volume. However, wine containing more than 14 percent of alcohol by volume may be used in preparing a dosage for finishing sparkling wine or artificially carbonated wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382)).

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31078, July 9, 1991]

### § 24.191 Segregation of operations.

Where more than one process of producing sparkling wine or artificially carbonated wine is used, the appropriate TTB officer may require the portion of the premises used for the production and storage of wine made by each process (bottle fermented, bulk fermented or artificially carbonated) to be segregated as provided by § 24.27. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.192 Process and materials.

In preparing still wine for the production of sparkling wine or artificially carbonated wine, sugar and acid of the kinds and within the limitations prescribed in § 24.182 may be added with yeast or yeast culture to acclimate the yeast and to facilitate the process of secondary fermentation or to correct the wine. Fruit syrup, sugar, wine, wine spirits, and acid may be used in preparing a finishing dosage for sparkling wine or artificially carbonated wine provided the dosage does not exceed 10 percent by volume of the finished product. Where the proprietor desires to use more than 10 percent by volume finishing dosage, the proprietor shall file for a formula approval under § 24.80. The fruit syrup, wine spirits and wine used will come from the same kind of fruit as the wine from which the sparkling wine or artificially carbonated wine is made. In the production of sparkling wine or artificially carbonated wine, taxpaid wine spirits or wine spirits withdrawn tax-free may be used. Tax-free wine spirits may only be used in the production of sparkling wine or artificially carbonated wine which is a natural wine. In the refermentation and finishing of a sparkling wine, the acids and materials specifically authorized in § 24.246 may be used. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

(Approved by the Office of Management and Budget under control number 1512–0059)

### § 24.193 Conversion into still wine.

Sparkling wine or artificially carbonated wine may be dumped for use as still wine. The dumping process will allow the loss of carbon dioxide remaining in the wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5041, 5361))

## Subpart H—Production of Special Natural Wine

### § 24.195 General.

Special natural wine is a flavored wine made on bonded wine premises from a base of natural wine. The flavoring added may include natural herbs, spices, fruit juices, natural aromatics, natural essences or other natural flavoring, in quantities or proportions such that the resulting product derives character and flavor distinctive from the base wine and distinguishable from other natural wine. Fruit juices may not be used to give to one natural wine the flavor of another but may be used with herbs or spices to produce a

wine having a distinctive flavor. Caramel and sugar may be used in a special natural wine. However, the minimum 60 degrees Brix limitations prescribed in the definition of ''Liquid pure sugar'' and ''Invert sugar syrup'' in § 24.10 do not apply to materials used in the manufacture of vermouth. Finished vermouth will contain a minimum of 80 percent by volume natural wine. Heavy bodied blending wine and juice or concentrated fruit juice to which wine spirits have been added may be used in the production of special natural wine pursuant to formula approval. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control number 1512–0059)

### § 24.196 Formula required.

Before producing any special natural wine, the proprietor shall receive approval of the formula by which it is to be made as provided by § 24.80. Any change in a formula will be approved in advance as provided by § 24.81. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control number 1512–0059)

### § 24.197 Production by fermentation.

In producing special natural wine by fermentation, flavoring materials may be added before or during fermentation. Special natural wine produced by fermentation may be ameliorated in the same manner and to the same extent as natural wine made from the same fruit. Spirits may not be added to special natural wine with the exception of spirits contained in the natural wine used as a base or in authorized essences made on bonded wine premises as provided in § 24.86 or in approved essences made elsewhere. Upon removal of the wine from fermenters, the volume of liquid will be determined accurately and recorded as wine produced. The quantity of liquid in fermenters at the close of each reporting period will be reported on the TTB F 5120.17, Report of Bonded Wine Premises Operations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.198 Blending.

Special natural wine may be blended with other special natural wine of the same class and kind, and with heavy bodied blending wine, or natural wine of the same kind of fruit, in the further production of special natural wine. The blending of special natural wines produced under different formulas requires the filing and approval of a formula authorizing a blending; however, where two or more formulas have been approved for the production of special natural wine of the same type, e.g., producing a sweet vermouth by blending sweet vermouths produced under two or more approved formulas, the submission and approval of an additional formula is not required. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

(Approved by the Office of Management and Budget under control number 1512–0059)

## Subpart I—Production of Agricultural Wine

### § 24.200 General.

Agricultural wine may be produced on bonded wine premises from suitable agricultural products other than the juice of fruit. Water or sugar, or both, may be used within the limitations of this subpart in the production of agricultural wine. Agricultural wine may not be flavored or colored; however, hops may be used in the production of honey wine. Spirits may not be used in the production of the wine and a wine made from one agricultural product may not be blended with a wine made from another agricultural product. Agricultural wine made with sugar in excess of the limitations of this subpart is other than standard wine and will be segregated and clearly identified. Since grain, cereal, malt, or molasses are not suitable materials for the production of agricultural wine, these materials may

not be received on bonded wine premises. Beverage alcohol products made with these materials are not classed as wine and may not be produced or stored on bonded wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5387))

### § 24.201 Formula required.

Before producing any agricultural wine, the proprietor shall obtain an approval of the formula and process by which it is to be made pursuant to the provisions of § 24.80. Any change in a formula will be approved in advance as provided by § 24.81. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5387))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.202 Dried fruit.

In the production of wine from dried fruit, a quantity of water sufficient to restore the moisture content to that of the fresh fruit may be added. If it is desired not to restore the moisture content of the dried fruit to that of the fresh fruit, or if the moisture content is not known, sufficient water may be added to reduce the density to 22 degrees Brix. If the dried fruit liquid after restoration is found to be deficient in sugar, sufficient pure dry sugar may be added to increase the total solids content to 25 degrees Brix. After addition of water to the dried fruit, the resulting liquid may be ameliorated with either water or sugar, or both, in such total volume as may be necessary to reduce the natural fixed acid level of the mixture to a minimum of 5.0 grams per liter; however, in no event may the volume of the ameliorating material exceed 35 percent of the total volume of the ameliorated juice or wine (calculated exclusive of pulp). Pure dry sugar may be used for sweetening. After complete fermentation or complete fermentation and sweetening, the finished product may not have a total solids content that exceeds 35 degrees Brix. (26 U.S.C. 5387)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB–23, 70 FR 2801, Jan. 18, 2005]

### § 24.203 Honey wine.

(a) Subject to paragraph (b) of this section, a winemaker, in the production of wine from honey, may add the following:

(1) Water to facilitate fermentation, provided the density of the honey and water mixture is not reduced below 13 degrees Brix;

(2) Hops in quantities not to exceed one pound for each 1,000 pounds of honey; and

(3) Pure, dry sugar or honey for sweetening. Sugar may be added only after fermentation is completed.

(b) After complete fermentation or complete fermentation and sweetening, the wine may not have an alcohol content of more than 14 percent by volume or a total solids content that exceeds 35 degrees Brix. (26 U.S.C. 5387)

[T.D. TTB–23, 70 FR 2801, Jan. 18, 2005]

### § 24.204 Other agricultural products.

In the production of wine from agricultural products, other than dried fruit and honey, water and sugar may be added to the extent necessary to facilitate fermentation; *Provided,* That the total weight of pure dry sugar used for fermentation is less than the weight of the primary winemaking material and the density of the mixture prior to fermentation is not less than 22 degrees Brix, if water, or liquid sugar, or invert sugar syrup is used. Additional pure dry sugar may be used for sweetening, provided the alcohol content of the finished wine after complete fermentation or after complete fermentation and sweetening, is not more than 14 percent by volume and the total solids content is not more than 35 degrees Brix. (Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

## Subpart J—Production of Other Than Standard Wine

### § 24.210 Classes of wine other than standard wine.

The following classes of wine are not standard wine:

(a) High fermentation wine, produced as provided in § 24.212;

(b) Heavy bodied blending wine, produced as provided in § 24.213;

(c) Spanish type blending sherry, produced as provided in § 24.214;

(d) Wine products not for beverage use, produced as provided in § 24.215;

(e) Distilling material, produced as provided in § 24.216;

(f) Vinegar stock, produced as provided in § 24.217; and

(g) Wines other than those in classes listed in paragraphs (a), (b), (c), (d), (e), and (f), of this section produced as provided in § 24.218. (Sec. 201, Pub. L. 85–859, 72 Stat. 1387, as amended (26 U.S.C. 5388))

### § 24.211 Formula required.

The proprietor who desires to produce wine other than standard wine shall first obtain approval of the formula by which it is to be made, except that no formula is required for distilling material or vinegar stock. The formula is filed as provided by § 24.80. Any change in the formula will be approved in advance as provided by § 24.81. (Sec. 201, Pub. L. 85–859, 72 Stat. 1387, as amended (26 U.S.C. 5388))

(Approved by the Office of Management and Budget under control number 1512–0059)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.212 High fermentation wine.

High fermentation wine is wine made with the addition of sugar within the limitations prescribed for natural wine except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and wine spirits have not been added. Although high fermentation wine is not a standard wine, it is produced, stored, and handled on bonded wine premises subject to the same marking or labeling requirements. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

### § 24.213 Heavy bodied blending wine.

Heavy bodied blending wine is wine made for blending purposes from grapes or other fruit without added sugar, and with or without added wine spirits, and having a total solids content in excess of 21 percent. Heavy bodied blending wine may be used in blending with other wine made from the same kind of fruit or for removal upon payment of tax, not for sale or consumption as beverage wine. Upon removal, the shipping containers and shipping records will be marked ''Heavy Bodied Blending Wine—Not for Sale or Consumption as Beverage Wine.'' (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1387, as amended (26 U.S.C. 5361, 5388))

(Approved by the Office of Management and Budget under control numbers 1512–0298 and 1512– 0503)

### § 24.214 Spanish type blending sherry.

Blending wine made with partially caramelized grape concentrate may be produced, stored, and handled on, or transferred in bond between, bonded wine premises, or removed upon payment of tax, not for sale or consumption as beverage wine. Wine of a high solids content and dark in color, produced under this section, is designated ''Spanish Type Blending Sherry.'' Upon removal, the shipping containers will be marked with the applicable designation and the legend ''Not for Sale or Consumption as Beverage Wine.'' Spanish type blending sherry is not standard wine and may not be blended with standard wine except pursuant to an approved formula or in the further production of this type of wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1387, as amended (26 U.S.C. 5361, 5388))

(Approved by the Office of Management and Budget under control numbers 1512–0059 and 1512–0503)

### § 24.215 Wine or wine products not for beverage use.

(a) *General.* Wine, or wine products made from wine, may be treated with methods or materials which render the wine or wine products unfit for beverage use. No wine or wine products so

treated may contain more than 21 percent of alcohol by volume at the time of withdrawal free of tax from bonded wine premises; nor may any wine or wine product so withdrawn be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in the compounding. Wine or wine products produced under this section will be clearly identified and segregated from beverage wine products while stored on bonded wine premises and may be transferred in bond between bonded wine premises. The shipping records for transfers in bond of nonbeverage wine or wine products will be marked ''Not for Sale or Consumption as Beverage Wine.'' Upon removal from bonded wine premises free of tax, containers of nonbeverage wine or wine products will be marked to clearly indicate such products are not for sale or consumption as beverage wine, e.g., salted wine, vinegar, nonbeverage cooking wine.

(b) *Salted wine.* Salted wine is a wine or wine product not for beverage use produced in accordance with the provisions of this section and having not less than 1.5 grams of salt per 100 milliliter of wine. (12.5 pounds of salt/100 gallons of wine.)

(c) *Vinegar.* Vinegar is a wine or wine product not for beverage use produced in accordance with the provisions of this section and having not less than 4.0 grams (4.0 percent) of volatile acidity (calculated as acetic acid and exclusive of sulfur dioxide) per 100 milliliters of wine. (Sec. 201, Pub. L. 85–859 and Sec. 455, Pub. L. 98–369, 72 Stat. 1380, as amended (26 U.S.C. 5361, 5362))

(Approved by the Office of Management and Budget under control number 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991]

### § 24.216 Distilling material.

Wine may be produced on bonded wine premises from grapes and other fruit, natural fruit products, or fruit residues, for use as distilling material, using any quantity of water desired to facilitate fermentation or distillation. No sugar may be added in the production of distilling material. Distillates containing aldehydes may be used in the fermentation of wine to be used as distilling material. Lees, filter wash, and other wine residues may also be accumulated on bonded wine premises for use as distilling material. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5361, 5373))

### § 24.217 Vinegar stock.

Vinegar stock may be produced on bonded wine premises with the addition of any quantity of water desired to meet commercial standards for the production of vinegar. Vinegar stock may be made only by the addition of water to wine or by the direct fermentation of the juice of grapes or other fruit with added water. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended (26 U.S.C. 5361))

### § 24.218 Other wine.

(a) *General.* Other than standard wine not included in other sections in this subpart are considered other wine. Those wines considered to be other wine include:

(1) Wine made with sugar, water, or sugar and water beyond the limitations prescribed for standard wine.

(2) Wine made by blending wines produced from different kinds of fruit.

(3) Wine made with sugar other than pure dry sugar, liquid pure sugar, and invert sugar syrup.

(4) Wine made with materials not authorized for use in standard wine.

(b) *Production of other wine.* Other wine may be made on bonded wine premises but will remain segregated from standard wine. Other wine will have a basic character derived from the primary winemaking material. If sugar is used to make other wine, the aggregate weight of the sugar used before and during fermentation will be less than the weight of the primary wine producing material. Wine spirits may be added to other wine. Upon removal, other wine will be marked or labeled with a designation which will adequately disclose the nature and composition of the wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

(Approved by the Office of Management and Budget under control number 1512–0503)

## Subpart K—Spirits

### § 24.225 General.

The proprietor of a bonded wine premises may withdraw and receive spirits without payment of tax from the bonded premises of a distilled spirits plant for uses as are authorized in this part. Wine spirits produced in the United States may be added to natural wine on bonded wine premises if both the wine and the spirits are produced from the same kind of fruit. In the case of natural still wine, wine spirits may be added in any State only to wine produced by fermentation on bonded wine premises located within the same State. If wine has been ameliorated, wine spirits may be added (whether or not wine spirits were previously added) only if the wine contains not more than 14 percent of alcohol by volume derived from fermentation. Spirits other than wine spirits may be received, stored and used on bonded wine premises only for the production of nonbeverage wine and nonbeverage wine products. Wooden storage tanks used for the addition of spirits may be used for the baking of wine. (Sec. 201, Pub. L. 85–859 and Sec. 455, Pub. L. 98–369, 72 Stat. 1381 as amended, 1382, as amended, 1383, as amended, 1384, as amended (26 U.S.C. 5366, 5373, 5382, 5383)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991]

### § 24.226 Receipt or transfer of spirits.

When spirits are received at the bonded wine premises, the proprietor shall determine that the spirits are the same as described on the transfer record and follow the procedures prescribed by 27 CFR 19.510. A copy of the transfer record, annotated to show any difference between the description of spirits and quantity received, will be maintained by the proprietor as a record of receipt. If spirits are to be transferred to a distilled spirits plant or to bonded wine premises, the proprietor shall use the transfer record and procedures prescribed by 27 CFR 19.508. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.227 Transfer of spirits by pipeline for immediate use.

Spirits transferred by pipeline for immediate use are gauged either by weight or by volume on the bonded premises of the distilled spirits plant. Where the spirits are gauged on the bonded premises of the distilled spirits plant, the pipelines will be directly connected with the spirits addition tanks. The valves in the pipeline will be closed and locked with a lock at all times except when necessary to be opened for the transfer of spirits. Where the proprietor has placed wine in a spirits addition tank and has determined the quantity of spirits to be added, the spirits may be transferred. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991]

### § 24.228 Transfer of spirits by pipeline to a spirits storage tank.

Where it is desired to transfer spirits by pipeline to bonded wine premises and store the spirits prior to use, there will be provided a suitable tank for storing the spirits. The spirits to be transferred, if not gauged on the bonded premises of the distilled spirits plant, will be gauged by weight or volume on bonded wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991]

### § 24.229 Tank car and tank truck requirements.

Railroad tank cars and tank trucks used to transport spirits for use in wine production will be constructed, marked, filled, labeled, and inspected in the manner required by regulations in 27 CFR part 19. (Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended (26 U.S.C. 5206, 5214))

### § 24.230 Examination of tank car or tank truck.

Upon arrival of a tank car or tank truck at the bonded wine premises, the proprietor shall carefully examine the car or truck to see whether the seals

are intact and whether there is any evidence of tampering or loss by leaking or otherwise. Any evidence of loss will be reported to the appropriate TTB officer. The contents of the tank car or tank truck will be gauged by weight or volume at the time of receipt by the proprietor. If the tank car or tank truck has been accurately calibrated and the calibration chart is available at the bonded wine premises, the spirits may be gauged by volume in the tank car or tank truck. In any case where a volume gauge is made, the actual measurements of the spirits in the gauging tank, tank car, or tank truck, and the temperature of the spirits will be recorded on the copy of the transfer record accompanying the shipment. (Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended, 1381, as amended (26 U.S.C. 5206, 5214, 5366))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.231 Receipt of spirits in sealed bulk containers.

The proprietor shall examine sealed bulk containers (packages) of spirits received at the bonded wine premises to verify that the containers are the same as those described on the transfer record accompanying the shipment. Any container which appears to have been tampered with or from which spirits appear to have been removed or lost will be gauged by the proprietor and the proprietor shall prepare and submit to the appropriate TTB officer a statement setting forth fully the circumstances and apparent cause of any loss. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5366, 5367, 5368, 5373))

(Approved by the Office of Management and Budget under control numbers 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.232 Gauge of spirits.

(a) If the spirits to be used are in a spirits storage tank on bonded wine premises, or are received immediately prior to use from a distilled spirits plant not adjacent or contiguous to bonded wine premises, the proprietor shall determine the proof of the spirits and the quantity used by volume gauge or by weight. Upon completion of the transfer of spirit from the spirits storage tank to the spirits addition tank, the proprietor shall lock the spirits storage tank.

(b) If the spirits are received from the adjacent or contiguous bonded premises of a distilled spirits plant and are transferred directly into a spirits addition tank, the gauge of the spirits made on the distilled spirits plant premises will be used. The proprietor at the distilled spirits plant premises shall deliver a transfer record to the proprietor of bonded wine premises who shall acknowledge receipt of the spirits on the transfer record.

(c) If the spirits are received in packages and the quantity of spirits needed for the addition is not equal to the contents of full packages, a portion of one package may be used and the remnant package returned to the spirits storage room. The proprietor shall gauge the remnant package and attach to it a label showing the date of gauge, the weight of the remnant package, and the proof. The remnant package will be used at the first opportunity. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5368, 5373))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.233 Addition of spirits to wine.

(a) *Prior to the addition of spirits.* Wine will be placed in tanks approved for the addition of spirits. The proprietor shall accurately measure the wine, determine its alcohol content, determine the proof of the spirits to be added, calculate the quantity of spirits required, and enter the details in the record of spirits added to wine.

(b) *After the addition of spirits.* The proprietor shall thoroughly agitate the contents of the tank to assure a complete mixture of the wine and spirits. The proprietor shall then measure the volume of wine in the tank, take a representative sample of the wine, and test for alcohol content. The result of the measurement and test and the

quantity of spirits added will be entered in the record of spirits added to wine. The volume of wine used and the volume of wine resulting from the addition of spirits will be entered in the bulk wine record. The alcohol content of wine after the addition of spirits may not exceed 24 percent by volume. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373, 5382))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.234 Other use of spirits.

The proprietor producing sparkling wine, artificially carbonated wine, formula wine, or essences for which spirits are required may use tax-free wine spirits or brandy. For nonbeverage wine, tax-free spirits other than wine spirits or brandy may also be used. The spirits received by the proprietor will be locked in a secure room or locker on bonded wine premises. The spirits will remain in the original container in the storeroom until withdrawn for use. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended, 1383, as amended (26 U.S.C. 5373, 5382))

### § 24.235 Taxpayment or destruction of spirits.

(a) *Taxpayment of spirits.* The proprietor who wants to taxpay spirits shall follow the prepayment of tax procedures of 27 CFR 19.522(c).

(b) *Destruction of spirits.* The proprietor who wants to destroy spirits shall file an application with the appropriate TTB officer stating the quantity of spirits, the proposed date and method of destruction, and the reason for destruction. Spirits may not be destroyed prior to approval by the appropriate TTB officer. (Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.236 Losses of spirits.

Losses by theft or any other cause of spirits while on bonded wine premises or in transit are to be determined and reported at the time the losses are discovered. A physical inventory of the spirits storage tanks will be taken at the close of any month during which spirits were used in wine production, or upon completion of spirits use for the month or at any other time required by the appropriate TTB officer. Any loss which has not previously been reported will be determined by the inventory. (Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008, 5373))

(Approved by the Office of Management and Budget under control number 1512–0292)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.237 Spirits added to juice or concentrated fruit juice.

Juice or concentrated fruit juice to which spirits have been added may not have an alcohol content exceeding 24 percent by volume. Although not considered to be wine, juice or concentrated fruit juice to which spirits have been added will be included in the appropriate tax class of any wine inventory and will be properly identified. Juice or concentrated juice to which wine spirits are added will be reported on the TTB F 5120.17, Report of Bonded Wine Premises Operations, as wine, but a separate record will be maintained. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993]

## Subpart L—Storage, Treatment and Finishing of Wine

### § 24.240 General.

Wine will be stored on bonded wine premises in buildings or tanks constructed and secured in accordance with the provisions of §§ 24.166 and 24.167. Wine will be stored in tanks, casks, barrels, cased or uncased bottles, or in any other suitable container, which will not contaminate the wine. Specifically authorized materials and processes for the treatment and finishing of wine are listed in §§ 24.246 and 24.248 of this subpart. (Sec. 201, Pub. L.

85–859, 72 Stat. 1378, as amended, 1379, as amended, 1383, as amended, 1395, as amended (26 U.S.C. 5352, 5357, 5382, 5552))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991]

### § 24.241 Decolorizing juice or wine.

(a) *Conditions and limitations.* If the proprietor wishes to use activated carbon or other decolorizing material to remove color from juice or wine, the following conditions and limitations will be met:

(1) The wine will retain a vinous character after being treated with activated carbon or other decolorizing material;

(2) The quantity of activated carbon used to treat the wine, including the juice from which the wine was produced, may not exceed twenty-five pounds per 1,000 gallons (3.0 grams per liter) (see paragraph (b) of this section); and

(3) The wine treated with decolorizing material will have a color of not less than 0.6 Lovibond in a one-half inch cell or not more than 95 percent transmittance per AOAC Method 11.003–11.004 (see paragraph (c) of this section). However, the proprietor may produce a wine having a color of less than 0.6 Lovibond or more than 95 percent transmittance per AOAC Method 11.003–11.004 by using normal methods and without the use of decolorizing material.

(b) *Transfer in bond.* When a consignor proprietor transfers wine treated with activated carbon or other decolorizing material to a consignee proprietor, the consignor proprietor shall record on the shipping record:

(1) The amount of wine which has been treated under the provisions of this section; and

(2) The quantity of decolorizing material used in treating the wine, including the juice from which the wine was produced, before its transfer. The consignee proprietor may further treat the wine with decolorizing material as long as the consignee proprietor has a copy of the shipping record and complies with the requirements of this section.

(c) Incorporation by reference. The ''Official Methods of Analysis of the Association of Official Analytical Chemists'' (AOAC Method 11.003–11.004; 13th Edition 1980) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register, and is available for inspection or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* The publication is available from the Association of Official Analytical Chemists, 11 North 19th Street, Suite 210, Arlington, Virginia 22209. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended at 69 FR 18803, Apr. 9, 2004]

### § 24.242 Authority to use greater quantities of decolorizing material in juice or wine.

(a) *Proprietor's notice.* If the proprietor desires to remove color from juice prior to fermentation or if color in excess of that normally present in wine develops during the production or storage of a particular lot or lots, and if the proprietor desires to use activated carbon in excess of twenty-five pounds per 1,000 gallons (3.0 grams per liter) of juice or wine to remove this color, the proprietor, prior to starting the treatment, shall submit to the appropriate TTB officer a written notice for each lot of juice or wine to be treated for decolorization. The written notice will state

(1) The reason for the treatment;

(2) The volume, kind, and type of juice or wine to be treated;

(3) The kind and quantity of decolorizing material to be used; and,

(4) The length of time the decolorizing material is in contact with the juice or wine.

(b) *Action by the appropriate TTB officer on proprietor's notice.* Upon receipt of the proprietor's notice, the appropriate TTB officer may require the proprietor to submit samples representative of the lot of juice or wine for examination by the TTB laboratory.

(c) *Samples and chemical analysis*—(1) *Samples.* If the appropriate TTB officer requires samples under paragraph (b) of this section, the proprietor shall prepare samples representative of the lot of juice or wine for examination. The samples will consist of:

(i) The juice or wine before treatment with decolorizing material,

(ii) The juice or wine after treatment with decolorizing material, and

(iii) The decolorizing material used.

(2) *Chemical analysis.* If the TTB chemical analyses of the samples shows that the proposed treatment would remove only color and will not remove the vinous characteristics of the wine, the appropriate TTB officer will return an approved copy of the proprietor's written notice. If the TTB chemical analysis shows that the proposed treatment is not acceptable, the appropriate TTB officer will send the proprietor a letter stating the reason(s) for disallowing the proposed treatment. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

(Approved by the Office of Management and Budget under control numbers 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.243 Filtering aids.

Inert fibers, pulps, earths, or similar materials, may be used as filtering aids in the cellar treatment and finishing of wine. Agar-agar, carrageenan, cellulose, and diatomaceous earth are commonly employed inert filtering and clarifying aids. In general, there is no limitation on the use of inert materials and no records need be maintained concerning their use. However, if the inert material is dissolved in water prior to addition to wine, then the records required by § 24.301 will be maintained. Filtering aids which contain active chemical ingredients or which may alter the character of wine, may be used only in accordance with the provisions of § 24.246. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.244 Use of acid to stabilize standard wine.

Standard wine other than citrus wine, regardless of the fixed acid level, may be stabilized as a part of the finishing process by the addition of citric acid within the limitations of § 24.246. Standard wine (including citrus wine) may be stabilized by the addition of fumaric acid within the limitations of § 24.246. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

### § 24.245 Use of carbon dioxide in still wine.

The addition of carbon dioxide to (and retention in) still wine is permitted if at the time of removal for consumption or sale the still wine does not contain more than 0.392 grams of carbon dioxide per 100 milliliters of wine. However, a tolerance of not more than 0.009 grams per 100 milliliters to the maximum limitation of carbon dioxide in still wine will be allowed where the amount of carbon dioxide in excess of 0.392 grams per 100 milliliters is due to mechanical variations which can not be completely controlled under good commercial practice. A tolerance will not be allowed where it is found that the proprietor continuously or intentionally exceeds 0.392 grams of carbon dioxide per 100 milliliters of wine or where the variation results from the use of methods or equipment determined by the appropriate TTB officer not in accordance with good commercial practice. The proprietor shall determine the amount of carbon dioxide added to wine using authorized test procedures. Penalties are provided in 26 U.S.C. 5662 for any person who, whether by manner of packaging or advertising or by any other form of representation, misrepresents any still wine to be effervescent wine or a substitute for effervescent wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended, 1381, as amended, 1407, as amended (26 U.S.C. 5041, 5367, 5662))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.246 Materials authorized for the treatment of wine and juice.

(a) *Wine.* Materials used in the process of filtering, clarifying, or purifying

wine may remove cloudiness, precipitation, and undesirable odors and flavors, but the addition of any substance foreign to wine which changes the character of the wine, or the abstraction of ingredients which will change its character, to the extent inconsistent with good commercial practice, is not permitted on bonded wine premises. The materials listed in this section are approved, as being consistent with good commercial practice in the production, cellar treatment, or finishing of wine, and where applicable in the treatment of juice, within the general limitations of this section: *Provided,* That:

(1) When the specified use or limitation of any material on this list is determined to be unacceptable by the U.S. Food and Drug Administration, the appropriate TTB officer may cancel or amend the approval for use of the material in the production, cellar treatment, or finishing of wine; and

(2) Where water is added to facilitate the solution or dispersal of a material, the volume of water added, whether the material is used singly or in combination with other water based treating materials, may not total more than one percent of the volume of the treated wine, juice, or both wine and juice, from which such wine is produced.

(b) *Formula wine.* In addition to the material listed in this section, other material may be used in formula wine if approved for such use.

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE

| Materials and use | Reference or limitation |
|---|---|
| Acacia (gum arabic): To clarify and to stabilize wine | The amount used shall not exceed 2 lbs/1000 gals. (0.24 g/L of wine. 21 CFR 184.1330 (GRAS) *See footnote below. |
| Acetaldehyde: For color stabilization of juice prior to concentration. | The amount used must not exceed 300 ppm, and the finished concentrate must have no detectable level of the material. 21 CFR 182.60 (GRAS). |
| Activated carbon: | |
| To assist precipitation during fermentation | 27 CFR 24.176. GRAS per FDA advisory opinion dated 1/26/79. |
| To clarify and to purify wine | The amount used to clarify and purify wine shall be included in the total amount of activated carbon used to remove excessive color in wine. 27 CFR 24.241 and 24.242 (GRAS). |
| To remove color in wine and/or juice from which the wine was produced. | The amount used to treat the wine, including the juice from which the wine was produced, shall not exceed 25 lbs/1000 gal. (3.0 g/L). If the amount necessary exceeds this limit, a notice is required pursuant to 27 CFR 24.242 (GRAS). |
| Albumen (egg white): Fining agent for wine | May be prepared in a light brine 1 oz. (28.35 grams) potassium chloride, 2 lbs (907.2 grams) egg white, 1 gal. (3.785 L) of water. Usage not to exceed 1.5 gals. of solution per 1,000 gals. of wine. (GRAS). |
| Alumino-silicates (hydrated) e.g., Bentonite (Wyoming clay) and Kaolin: To clarify and to stabilize wine or juice. | 21 CFR §§182.2727, 182.2729, 184.1155 (GRAS) and 186.1256. GRAS per FDA advisory opinion dated July 26, 1985. |
| Ammonium phosphate (*mono-* and *di* basic): Yeast nutrient in wine production and to start secondary fermentation in the production of sparkling wines. | The amount used shall not exceed 8 lbs. per 1000 gals. (0.96 g/L) of wine. 21 CFR 184.1141 (GRAS). |
| Ascorbic acid *iso*-ascorbic acid (erythorbic acid): To prevent oxidation of color and flavor components of juice and wine. | May be added to grapes, other fruit (including berries), and other primary wine making materials, or to the juice of such materials, or to the wine, within limitations which do not alter the class or type of the wine. 21 CFR 182.3013 and 182.3041 (GRAS). |
| Calcium carbonate (with or without calcium salts of tartaric and malic acids): | |
| To reduce the excess natural acids in high acid wine, and in juice prior to or during fermentation.. | The natural or fixed acids shall not be reduced below 5 g/L. 21 CFR 184.1069 and 184.1099, and 184.1191 (GRAS). |
| A fining agent for cold stabilization. | The amount used shall not exceed 30 lbs/1000 gals. (3.59 g/L) of wine. |
| Calcium pantothenate: Yeast nutrient to facilitate fermentation of apple wine. | The amount used must not exceed 0.1 lb. per 25,000 gallons. 21 CFR 184.1212 (GRAS). |
| Calcium sulfate (gypsum): To lower pH in sherry wine. | The sulfate content of the finished wine shall not exceed 2.0g/L, expressed as potassium sulfate. 27 CFR 24.214. 21 CFR 184.1230 (GRAS). |
| Carbon dioxide (including food grade dry ice): To stabilize * * * and to preserve wine. | 27 CFR 24.245.<br>21 CFR 184.1240 (GRAS). |
| Casein, potassium salt of casein: To clarify wine | GRAS per FDA opinions of 02/23/60 and 08/25/61. 27 CFR 24.243. |

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE—Continued

| Materials and use | Reference or limitation |
|---|---|
| Citric acid: | |
| To correct natural acid deficiencies in wine | 27 CFR 24.182 and 24.192. 21 CFR 182.1033 (GRAS). |
| To stabilize wine other than citrus wine | The amount of citric acid shall not exceed 5.8 lbs/1000 gals. (0.7 g/L). 27 CFR 24.244. 21 CFR 182.1033 (GRAS). |
| Copper sulfate: To remove hydrogen sulfide and/or mercaptans from wine. | The quantity of copper sulfate added (calculated as copper) must not exceed 6 parts copper per million parts of wine (6.0 mg/L). The residual level of copper in the finished wine must not exceed 0.5 parts per million (0.5 mg/L). 21 CFR 184.1261 (GRAS). |
| Defoaming agents (polyoxyethylene 40 monostearate, silicon dioxide, dimethylpoly-siloxane, sorbitan monostearate, glyceryl mono-oleate and glyceryl dioleate): To control foaming, fermentation adjunct. | Defoaming agents which are 100% active may be used in amounts not exceeding 0.15 lbs/1000 gals. (0.018 g/L of wine. Defoaming agents which are 30% active may be used in amounts not exceeding 0.5 lbs/1000 gals. (0.06 g/L) of wine. Silicon dioxide shall be completely removed by filtration. The amount of silicon remaining in the wine shall not exceed 10 parts per million. 21 CFR 173.340 and 184.1505. |
| Dimethyl dicarbonate: | |
| To sterilize and to stabilize wine, dealcoholized wine, and low alcohol wine. | Must meet the conditions prescribed by FDA in 21 CFR 172.133. DMDC may be added to wine, dealcoholized wine, and low alcohol wine in a cumulative amount not to exceed 200 parts per million (ppm). |
| Enzymatic activity: Various uses as shown below | The enzyme preparation used shall be prepared from nontoxic and nonpathogenic microorganisms in accordance with good manufacturing practice and be approved for use in food by either FDA regulation or by FDA advisory opinion. |
| Carbohydrase (*alpha*-Amylase): To convert starches to fermentable carbohydrates. | The amylase enzyme activity shall be derived from *Aspergillus niger, Aspergillus oryzae, Bacillus subtilis,* or barley malt per FDA advisory opinion of 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Bacillus licheniformis* per 21 CFR 184.1027. |
| Carbohydrase (*beta*-Amylase): To convert starches to fermentable carbohydrates. | The amylase enzyme activity shall be derived from barley malt per FDA advisory opinion dated 8/18/83. |
| Carbohydrase (Glucoamylase, Amylogluco-sidase): To convert starches to fermentable carbohydrates. | The amylase enzyme activity shall be derived from *Aspergillus niger* or *Aspergillus oryzae* per FDA advisory opinion dated 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Rhizopus niveus* per 21 CFR 173.110. |
| Carbohydrase (pectinase, cellulase, hemicellulase): To facilitate separation of juice from the fruit. | The enzyme activity used must be derived from *Aspergillus aculeatus*. FDA advisory opinion dated12/19/1996. |
| Catalase: To clarify and to stabilize wine | The enzyme activity used shall be derived from *Aspergillus niger* or bovine liver per FDA advisory opinion dated 8/18/83 (GRAS). |
| Cellulase: To clarify and to stabilize wine and to facilitate separation of the juice from the fruit. | The enzyme activity used shall be derived from *Aspergillus niger* per FDA advisory opinion dated 8/18/83 (GRAS). |
| Cellulase (beta-glucanase): To clarify and filter wine | The enzyme activity must be derived from *Tricoderma longibrachiatum*. The amount used must not exceed 3 g/hl. 21 CFR 184.1250 (GRAS). |
| Glucose oxidase: To clarify and to stabilize wine | The enzyme activity used shall be derived from *Aspergillus niger* per FDA advisory opinion of 8/18/83 (GRAS). |
| Lysozyme: To stabilize wines from malolactic acid bacterial degradation.. | The amount used must not exceed 500 mg/L. FDA advisory opinion dated 12/15/93. |
| Pectinase: To clarify and to stabilize wine and to facilitate separation of juice from the fruit. | The enzyme activity used shall be derived from *Aspergillus niger* per FDA advisory opinion dated 8/18/83 (GRAS). |
| Protease (general): To reduce or to remove heat labile proteins. | The enzyne activity used shall be derived from *Aspergillus niger* or *Bacillus subtilis* per FDA advisory opinion dated 08/18/83 or from *Bacillus licheniformis* per 21 CFR 184.1027 (GRAS). |
| Protease (Bromelin): To reduce or to remove heat labile proteins. | The enzyme activity used shall be derived from *Ananus comosus* or *Ananus bracteatus (L)* per FDA advisory opinion dated 08/18/83 (GRAS). |
| Protease (Ficin): To reduce or to remove heat labile proteins. | The enzyme activity used shall be derived from *Ficus spp.* per FDA advisory opinion dated 08/18/83 (GRAS). |
| Protease (Papain): To reduce or to remove heat labile proteins. | The enzyme activity used shall be deived from *Carica papaya (L)* per 21 CFR 184.1585 (GRAS). |
| Protease (Pepsin): To reduce or to remove heat labile proteins. | The enzyme actvity used shall be derived from porcine or bovine stomachs per FDA advisory opinion dated 08/18/83 (GRAS). |
| Protease (Trypsin): To reduce or to remove heat labile proteins. | The enzyme activity used shall be derived from porcine or bovine pancreas per FDA advisory opinion dated 08/18/83 (GRAS). |

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE—Continued

| Materials and use | Reference or limitation |
|---|---|
| Urease: To reduce levels of naturally occurring urea in wine to help prevent the formation of ethyl carbamate. | The urease enzyme activity shall be derived from Lactobacillus fermentum per 21 CFR 184.1924. Use is limited to not more than 200 mg/L and must be filtered prior to final packaging of the wine. |
| Ethyl maltol: To stabilize wine | Use authorized at a maximum level of 100mg/L in all standard wines except natural wine produced from *Vitis vinifera* grapes. FDA advisory opinion dated 12/1/86. |
| Ferrocyanide compounds (sequestered complexes): To remove trace metal from wine and to remove objectionable levels of sulfide and mercaptans from wine. | No insoluble or soluble residue in excess of 1 part per million shall remain in the finished wine and the basic character of the wine shall not be changed by such treatment. GRAS per FDA advisory opinion of 06/22/82. |
| Ferrous sulfate: To clarify and to stabilize wine | The amount used shall not exeed 3 ozs./1000 gals. (0.022 g/L) of wine. 21 CFR 184.1315 (GRAS). |
| Fumaric acid: | |
| To correct natural acid deficiencies in grape wine | The fumaric acid content of the finished wine shall not exceed 25 lbs/1000 gals (3.0 g/L). 27 CFR 24.182 and 24.192. 21 CFR 172.350. |
| To stabilize wine | The fumaric acid content of the finished wine shall not exceed 25 lbs/1000 gals (3.0 g/L). 27 CFR 24.244. 21 CFR 172.350. |
| Gelatin (food grade): To clarify juice or wine | (GRAS). |
| Granular cork: To smooth wine | The amount used shall not exceed 10 lbs/1000 gals. of wine (1.2 g/L). GRAS per FDA advisory opinion dated 02/25/85. |
| Isinglass: To clarify wine | GRAS per FDA advisory opinion dated 02/25/85. |
| Lactic acid: To correct natural acid deficiencies in grape wine | 27 CFR 24.182 and 24.192.<br>21 CFR 184.1061 (GRAS). |
| Malic acid: To correct natural acid deficiencies in juice or wine | 27 CFR 24.182 and 24.192. 21 CFR 184.1069 (GRAS). |
| Malo-lactic bacteria: To stabilize grape wine | Malo-lactic bacteria of the type *Leuconostoc oenos* may be used in treating wine. GRAS per FDA advisory opinion dated 02/25/85. |
| Maltol: To stabilize wine | Use authorized at a maximum level of 250 mg/L in all standard wine except natural wine produced from *Vitis vinifera* grapes. FDA advisory opinion dated 12/1/86. |
| Milk products (pasteurized whole, skim, or half-and-half): | |
| Fining agent for grape wine or sherry | The amount used must not exceed 2.0 liters of pasteurized milk product per 1,000 liters (0.2 percent V/V) of wine. |
| To remove off flavors in wine | The amount used must not exceed 10 liters of pasteurized milk product per 1,000 liters (1 percent V/V) of wine. |
| Nitrogen gas: To maintain pressure during filtering and bottling or canning of wine and to prevent oxidation of wine. | 21 CFR 184.1540 (GRAS). |
| Oak chips or particles, uncharred and untreated: To smooth wine. | 21 CFR 172.510. |
| Oxygen and compressed air: | |
| May be used in juice and wine | None. |
| Polyvinyl-polypyr-rolidone (PVPP): | |
| To clarify and to stabilize wine and to remove color from red or black wine or juice. | The amount used to treat the wine, including the juice from which the wine was produced, shall not exceed 60 lbs/1,000 gals. (7.19 g/L) and shall be removed during filtration. PVPP may be used in a continuous or batch process. The finished wine shall retain vinous character and shall have color of not less than 0.6 Lovibond in a one-half inch cell or not more than 95 percent transmittance per **AOAC Method 11.003–11.004 (14th Ed.). 21 CFR 173.50. |
| Potassium bitartrate: To stabilize grape wine | The amount used shall not exceed 35 lbs/1000 gals. (4.19 g/L) of grape wine. 21 CFR 184.1077 (GRAS). |
| Potassium carbonate and/or potassium bicarbonate | |
| To reduce excess natural acidity in wine, and in juice prior to or during fermentation. | The natural or fixed acids shall not be reduced below 5 parts per thousand (5 g/L). 21 CFR 184.1619 and 184.1613 (GRAS). |
| Potassium citrate: pH control agent and sequestrant in treatment of citrus wines. | The amount of potassium citrate shall not exceed 25 lbs/1000 gals. (3.0 g/L) of finished wine. 27 CFR 24.182. 21 CFR 182.1625 and 182.6625 (GRAS). |
| Potassium meta-bisulfite: To sterilize and to preserve wine | The sulfur dioxide content of the finished wine shall not exceed the limitations prescribed in 27 CFR 4.22. 21 CFR 182.3637 (GRAS). |
| Silica gel (colloidal silicon dioxide): To clarify wine or juice | Use must not exceed the equivalent of 20 lbs. colloidal silicon dioxide at a 30% concentration per 1000 gals. of wine. (2.4 g/L). Silicon dioxide must be completely removed by filtration. 21 CFR 172.480. |
| Sorbic acid and potassium salt of sorbic acid: To sterilize and to preserve wine; to inhibit mold growth and secondary fermentation. | The finished wine shall contain not more than 300 milligrams of sorbic acid per liter of wine. 21 CFR 182.3089 and 182.3640 (GRAS). |

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE—Continued

| Materials and use | Reference or limitation |
|---|---|
| Soy flour (defatted): Yeast nutrient to facilitate fermentation of wine. | The amount used shall not exceed 2 lbs/1000 gals. (0.24 g/L) of wine. (GRAS). |
| Sulfur dioxide: To sterilize and to preserve wine | The sulfur dioxide content of the finished wine shall not exceed the limitations prescribed in 27 CFR 4.22(b)(1). 21 CFR 182.3862 (GRAS). |
| Tannin: | |
| To adjust tannin content in apple juice or in apple wine | The residual amount of tannin shall not exceed 3.0 g/L, calculated as gallic acid equivalents (GAE). GRAS per FDA advisory opinions dated 4/6/59 and 3/29/60. Total tannin shall not be increased by more than 150 milligrams/liter by the addition of tannic acid (polygalloylglucose). |
| To clarify or to adjust tannin content of juice or wine (other than apple). | The residual amount of tannin, calculated in gallic acid equivalents, shall not exceed 0.8 g/L in white wine and 3.0 g/L in red wine. Only tannin which does not impart color may be used in the cellar treatment of juice or wine. GRAS per FDA advisory opinions dated 4/6/59 and 3/29/60. Total tannin shall not be increased by more than 150 milligrams/liter by the addition of tannic acid (poly-galloylglucose). |
| Tartaric acid: | |
| To correct natural acid deficiencies in grape juice/wine and to reduce the pH of grape juice/wine where ameliorating material is used in the production of grape wine. | Use as prescribed in 27 CFR 24.182 and 24.192. 21 CFR 184.1099 (GRAS). |
| Thiamine hydrochloride: Yeast nutrient to facilitate fermentation of wine. | The amount used shall not exceed 0.005 lb/1000 gals. (0.6 mg/L) of wine or juice. 21 CFR 184.1875 (GRAS). |
| Yeast, autolyzed: Yeast nutrient to facilitate fermentation in the production of grape or fruit wine. | 21 CFR 172.896 and 184.1983. GRAS per FDA advisory opinion of 10/06/59. |
| Yeast, cell wall/membranes of autolyzed yeast: To facilitate fermentation of juice/wine. | The amount used shall not exceed 3 lbs/1000 gals. (0.36 g/L) of wine or juice. (GRAS). |

*GRAS—An acronym for ''generally recognized as safe.'' The term means that the treating material has an FDA listing in Title 21, Code of Federal Regulations, Part 182 or Part 184, or is considered to be generally recognized as safe by advisory opinion issued by the U.S. Food and Drug Administration.
**AOAC—Association of Official Analytical Chemists.
***To stabilize—To prevent or to retard unwanted alteration of chemical and/or physical properties.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31079, July 9, 1991; T.D. ATF–350, 58 FR 52231, Oct. 7, 1993; T.D. ATF–350, 60 FR 38959, July 31, 1995; T.D. ATF–371, 61 FR 21079, May 9, 1996; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. TTB–17, 69 FR 67643, Nov. 19, 2004; 72 FR 51709, Sept. 11, 2007]

## § 24.247 Materials authorized for the treatment of distilling material.

The materials listed in this section as well as the materials listed in § 24.246 are approved as being acceptable in good commercial practice for use by proprietors in the treatment of distilling material within the limitations specified in this section: *Provided*, That when the specified use or limitation of any material on this list is determined to be unacceptable by the U.S. Food and Drug Administration, the appropriate TTB officer may cancel or amend the approval for use of the material in the treatment of distilling material.

| Materials | Use | Reference or limitation |
|---|---|---|
| Ammonium phosphate (*mono*- and *di* basic. | Yeast nutrient in distilling material | The amount used shall not exceed 10 lbs/1000 gals. (1.2 g/L). 21 CFR 184.1141 (GRAS).[1] See footnote below. |
| Benzoic acid, potassium and sodium salts of benzoic acid. | To prevent fermentation of the sugar in wine being accumulated as distilling material. | The amount used shall not exceed 0.1% (w/v) as benzoic acid. GRAS per FDA advisory opinions dated 9/22/82 and 9/8/83. 21 CFR 184.1021 and 184.1733 (GRAS). |
| Enzyme activity | | The enzyme preparation used shall be prepared from nontoxic and nonpathogenic microorganisms in accordance with good manufacturing practice and be approved for use in food by either FDA regulation or by FDA advisory opinion. |

| Materials | Use | Reference or limitation |
|---|---|---|
| Carbohydrase (*alpha*- Amylase). | To convert starches to fermentable carbohydrates. | The amylase enzyme activity shall be derived from *Aspergillus niger, Aspergillus oryzae, Bacillus subtilis,* or barley malt per FDA advisory opinion of 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Bacillus licheniformis* per 21 CFR 184.1027. |
| Carbohydrase (*beta*- Amylase). | To convent starches to fermentable carbohydrates. | The amylase enzyme activity shall be derived from barley malt per FDA advisory opinion dated 8/18/83. |
| Carbohydrase (Glucoamylase, Amylogluco-sidase). | To convent starches to fermentable carbohydrates. | The amylase enzyme actvity shall be derived from *Aspergillus niger* or *Aspergillus oryzae* per FDA advisory opinion dated 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Rhizopus niveus* per 21 CFR 173.110. |
| Copper sulfate | To eliminate hydrogen sulfide and mercaptans. | The finished brandy or wine spirits produced from distilling material to which copper sulfate has been added shall not contain more than 2 parts per million (2 mg/L) residual copper. GRAS per FDA advisory opinion of 7/23/69. |
| Hydrogen peroxide | To reduce the bisulfite aldehyde complex in distilling material. | The amount used shall not exceed 200 parts per million. 21 CFR 184.1366 (GRAS). |
| Potassium permanganate | Oxidizing agent | The finished brandy or wine spirits produced from distilling material to which potassium permanganate has been added must be free of chemical residue resulting from such treatment. (GRAS) |
| Sodium hydroxide | Acid neutralizing agent | The finished brandy or wine spirits produced from distilling material to which sodium hydroxide has been added must be free of chemical residue resulting from such treatment. 21 CFR 184.1763 (GRAS). |
| Sulfuric acid | To effect favorable yeast development in distilling material; to prevent fermentation of the sugar in wine being accumulated as distilling material; to lower pH to 2.5 in order to prevent putrefaction and/or ethyl acetate development. | 27 CFR 24.216 (GRAS), 21 CFR 184.1095 (GRAS). |

[1] GRAS—An acronym for ''generally recognized as safe.'' The term means that the treating material has an FDA listing in title 21, Code of Federal Regulations, part 182 or part 184, or is considered to be generally recognized as safe by the U.S. Food and Drug Administration.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.C.S. 5381, 5382, 5385, 5386, and 5387)).

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## § 24.248 Processes authorized for the treatment of wine, juice, and distilling material.

Any process which changes the character of the wine to the extent inconsistent with good commercial practice is not permitted on bonded wine premises. The processes listed in this section are approved as being consistent with good commercial practice for use by proprietors in the production, cellar treatment, or finishing of wine, juice, and distilling material, within the general limitations of this section: *Provided,* That when the specified use or limitation of any process on this list is determined to be unacceptable for use in foods and beverages by the U.S. Food and Drug Administration, the appropriate TTB officer may cancel or amend the approval for use of the process in the production, cellar treatment, or finishing of wine, juice, and distilling material.

PROCESSES AUTHORIZED FOR THE TREATMENT OF WINE, JUICE, AND DISTILLING MATERIAL

| Processes | Use | Reference or limitation |
|---|---|---|
| Electrodialysis | To aid in the removal of tartrates | This process must not alter the vinous character of the wine. |
| Elimination of sulfur dioxide by physical process. | To reduce the sulfur dioxide content of juice. | Use of a physical process to remove sulfur dioxide from juice must not alter the basic character of the juice so treated |

PROCESSES AUTHORIZED FOR THE TREATMENT OF WINE, JUICE, AND DISTILLING MATERIAL—Continued

| Processes | Use | Reference or limitation |
|---|---|---|
| Ion exchange | Various applications in the treatment of juice or wine: | Anion, cation, and non-ionic resins, except those anionic resins in the mineral acid state, may be used in batch or continuous column processes as total or partial treatment of wine, provided that with regard to juice or finished wine;<br>1. Such treatment does not alter the fruit character of the juice or wine.<br>2. The treatment does not reduce the color of the juice or wine to less than that normally contained in such juice or wine.<br>3. Treatment does not increase inorganic anions in the juice or wine by more than 10 mg/L.<br>4. The treatment does not reduce the metallic cation concentration in the juice or wine to less than 300 mg/L.<br>5. The treatment does not reduce natural or fixed acid in grape wine below 4 g/L for red table wines, 3 g/L for white table wines, 2.5 g/L for all other grape wines, 4 g/L for wine other than grape wine.<br>6. Treatment does not reduce the pH of the juice or wine to less than pH 2.8 nor increase the pH to more than pH 4.5.<br>7. The resins used have not imparted to the juice or wine any material or characteristic (incidental to the resin treatment) which may be prohibited under any other section of the regulations in this part. The winemaker may employ conditioning and/or regenerating agents consisting of water, fruit acids common to the wine or juice being treated, and inorganic acids, salts and/or bases provided the conditioned or regenerated resin is rinsed with water until the resin and container are essentially free from unreacted (excess) conditioning or regenerating agents prior to the introduction of the juice or wine. 21 CFR 173.25. |
| Metal reducing matrix sheet processing. | To reduce the level of metals such as copper and iron in wine. | (1) The active ingredient, polyvinylimidazol, must not constitute more than 40% by weight of the sheet.<br>(2) Use of the sheet must not significantly alter the color of the wine. |
| Nanofiltration | To reduce the level of volatile acidity in wine (used with ion exchange). | This process must use permeable membranes which are selective for molecules not greater than 150 molecular weight with transmembrane pressures of 250 psi or less. |
| Osmotic transport [1] | For alcohol reduction | (1) Use must not alter the vinous character of the wine<br>(2) None of the stripping solution may migrate into the wine. |
| Reverse osmosis [1] | To reduce the ethyl alcohol content of wine and to remove off flavors in wine. | Permeable membranes which are selective for molecules not greater than 500 molecular weight with transmembrane pressures of 200 psi and greater. The addition of water other than that originally present prior to processing will render standard wine ''other than standard.'' Use shall not alter vinous character. |
| Spinning cone column [1] | To reduce the ethyl alcohol content of wine and to remove off flavors in wine. | Use shall not alter vinous character. For standard wine, the same amount of essense must be added back to any lot of wine as was originally removed. |
| Sulfide reducing matrix sheet processing. | To reduce the level of sulfides in wine | (1) The active ingredient, polyvinylimidazol, must not constitute more than 40% by weight of the sheet.<br>(2) Use of the sheet must not significantly alter the color of the wine. |
| Thermal gradient processing | To separate wine into low alcohol and high alcohol wine fractions. | The fractions derived from such processing shall retain vinous character. Such treatment shall not increase the alcohol content of the high alcohol fraction to more than 24 percent by volume. The addition of water other than that originally present in the wine prior to processing will render standard wine ''other than standard.'' |
| | To separate juice into low Brix and high Brix juice fractions. | The low Brix fraction derived from such processing may be used in wine production. The high Brix fraction derived from such processing shall not be diluted with water for use in wine production. |

PROCESSES AUTHORIZED FOR THE TREATMENT OF WINE, JUICE, AND DISTILLING MATERIAL—Continued

| Processes | Use | Reference or limitation |
|---|---|---|
| Thin-film evaporation under reduced pressure [1]. | To separate wine into a low alcohol wine fraction and into a higher alcohol distillate. | Use shall not alter vinous character. Water separated with alcohol during processing may be recovered by refluxing in a closed continuous system and returned to the wine. The addition of water other than that originally present in the wine prior to processing, will render standard wine ''other than standard.'' |
| Ultrafiltration | To remove proteinaceous material from wine; to reduce harsh tannic material from white wine produced from white skinned grapes; to remove pink color from blanc de noir wine; to separate red wine into low color and high color wine fractions for blending purposes. | Permeable membranes which are selective for molecules greater than 500 and less than 25,000 molecular weight with transmembrane pressures less than 200 psi. Use shall not alter vinous character. 21 CFR 175.300, 177.1520, 177.1550, 177.1630, 177.2440, 177.2600, and 177.2910. |

[1] This process must be done on distilled spirits plant premises. However, reverse osmosis, under certain limited conditions, may be used on bonded winery premises if ethyl alcohol is only temporarily created within a closed system.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387)).

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31081, July 9, 1991; T.D. ATF–350, 58 FR 52232, Oct. 7, 1993; T.D. ATF–371, 61 FR 21079, May 9, 1996; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. TTB–17, 69 FR 67644, Nov. 19, 2004]

## § 24.249 Experimentation with new treating material or process.

(a) *General.* The proprietor may, under the provisions of this section, conduct on bonded wine premises such experimentation with a treating material or process as the appropriate TTB officer finds may be conducted in a manner that will not jeopardize the revenue, conflict with wine operations, or be contrary to law.

(b) *Application.* The proprietor who wants to conduct experimentation must file an application with the appropriate TTB officer setting forth in detail the experimentation to be conducted and the facilities and equipment to be used. The proposed experimentation must not be conducted until the appropriate TTB officer has determined that the conduct of such experimentation must not jeopardize the revenue, conflict with wine operations, or be contrary to law, and has approved the application.

(c) *Segregation of operations.* Experimentation authorized under this section will be conducted with the degree of segregation from wine operations as may be required by the appropriate TTB officer under the provisions of § 24.27.

(d) *Records.* The proprietor shall, with respect to each experiment authorized by this section, keep records of the kind and quantity of materials received and used and the volume of wine treated and the manner by which disposed.

(e) *Disposition of the wine.* The disposition of the wine subjected to experimental treatment will conform to the conditions stated in the authorization to conduct the experimentation. (Sec. 201, Pub. L. 85–859 (72 Stat. 1383, as amended (26 U.S.C. 5361, 5382))

(Approved by the Office of Management and Budget under control numbers 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999]

## § 24.250 Application for use of new treating material or process.

(a) *General.* If the proprietor desires to use a material or process which is not specifically authorized in §§ 24.246, 24.247, 24.248, or elsewhere in this part, an application shall be filed with the appropriate TTB officer to show that the proposed material or process is a cellar treatment consistent with good commercial practice.

(b) *Data required.* The application will include the following:

(1) The name and description of the material or process;

(2) The purpose, the manner, and the extent to which the material or process

is to be used together with any technical bulletin or other pertinent information relative to the material or process;

(3) A sample, if a proposed material;

(4) Documentary evidence of the U.S. Food and Drug Administration's approval of the material for its intended purpose in the amounts proposed for the particular treatment contemplated;

(5) The test results of any laboratory-scale pilot study conducted by the winemaker in testing the material and an evaluation of the product and of the treatment including the results of tests of the shelf life of the treated wine;

(6) A tabulation of pertinent information derived from the testing program conducted by the chemical manufacturer demonstrating the function of the material or process;

(7) A list of all chemicals used in compounding the treating material and the quantity of each component;

(8) The recommended maximum and minimum amounts, if any, of the material proposed to be used in the treatment and a statement as to the volume of water required, if any, to facilitate the addition of the material or operation of the process; and

(9) Two 750-milliliter samples representative of the wine before and after treatment. Information of a confidential or proprietary nature to the manufacturer or supplier of the treating material or process may be forwarded by the manufacturer or supplier to the appropriate TTB officer with a reference to the application filed by the winemaker. Information contained within the winemaker's application can be disclosed to the public, subject to the limitations of 26 U.S.C. 6103 and 7213.

(c) *Use of cellar treatment.* The proprietor may not use the proposed treating material or process until a determination has been made by the appropriate TTB officer that the intended use of the material or process is acceptable in good commercial practice.

(d) *Processing of application.* After evaluation of the data submitted with the application, the appropriate TTB officer will make a decision regarding the acceptability of the proposed treatment in good commercial practice. The appropriate TTB officer will notify the proprietor of the approval or disapproval of the application. (Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

(Approved by the Office of Management and Budget under control numbers 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999]

BOTTLING, PACKING, AND LABELING OF WINE

### § 24.255 Bottling or packing wine.

(a) *General.* Proprietors of a bonded wine premises and a taxpaid wine bottling house premises shall be held strictly responsible for the correct determination of the quantity and alcohol content of wine removed. As required by § 24.170, appropriate and accurate measures and instruments for measuring and testing the wine will be provided at each wine premises.

(b) *Bottle or other container fill.* Proprietors of bonded wine premises and taxpaid wine bottling house premises shall fill bottles or other containers as nearly as possible to conform to the amount shown on the label or blown in the bottle or marked on any container other than a bottle; but in no event may the amount of wine contained in any individual bottle, due to lack of uniformity of the bottles, vary from the amount stated more than 1.0 percent for 15.0 liters and above, 1.5 percent for 1.0 liter to 14.9 liters, 2.0 percent for 750 mL, 3.0 percent for 375 mL, 4.5 percent for 187 mL and 100 mL, and 9.0 percent for 50 mL; and in such case, there will be substantially as many bottles overfilled as there are bottles underfilled for each lot of wine bottled. Short-filled bottles or other containers of wine which are sold or otherwise disposed of by the proprietor to employees for personal consumption need not be labeled, but, if labeled, need not show an accurate statement of net contents.

(c) *Tax tolerance.* The net contents of bottles or other containers of untaxpaid wine in the same tax class filled during six consecutive tax return periods, as determined from the bonded wine premises proprietor's fill test records, shall not vary by more than 0.5

percent from the net contents as stated on the bottles or other containers. The bonded wine premises proprietor is liable for the tax on the entire amount of wine in the same tax class when that wine is removed from bond, without benefit of tolerance, when the fill of bottles or other containers exceeds a 0.5 percent average of a period which consists of six consecutive tax returns, or when filling is not conducted in compliance with good commercial practice.

(d) *Fill tests.* The proprietor shall test at representative intervals wine bottled or packed during the bottling or packing operation of each bottling or packing line to determine if the wine contained in the bottle or other container is in agreement with that stated on the label, bottle, or other container.

(e) *Alcohol tests.* The proprietor shall test the alcohol content by volume to determine the tax class of the wine and to ensure the alcohol content to be stated on the label is in agreement with the requirement of § 24.257. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5368))

(Approved by the Office of Management and Budget under control numbers 1512–0298 and 1512–0503)

### § 24.256 Bottle aging wine.

Wine bottled or packed and stored for the purpose of aging need not have labels affixed until the wine is removed for consumption or sale. However, the bins, pallets, stacks, cases or containers of unlabeled wine will be marked in some manner to show the kind (class and type) and alcohol content of the wine. If the unlabeled wine is stored at a location other than the bottling or packing winery, the registry number of the bottling or packing winery will also be shown. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1407, as amended (26 U.S.C. 5368, 5662))

(Approved by the Office of Management and Budget under control number 1512–0503)

### § 24.257 Labeling wine containers.

(a) The proprietor must label each bottle or other container of beverage wine prior to removal for consumption or sale. The minimum type size for information required by this section is: 2 millimeters for containers of more than 187 milliliters and 1 millimeter for containers of 187 milliliters or less. The maximum type size for alcohol content statements is 3 millimeters unless the container is larger than 5 liters. The label must be securely affixed and show:

(1) The name and address of the wine premises where bottled or packed;

(2) The brand name, if different from above;

(3) The alcohol content as percent by volume or the alcohol content stated in accordance with 27 CFR part 4. For wine with less than 7 percent alcohol by volume stated on the label there is allowed an alcohol content tolerance of plus or minus .75 percent by volume; and

(4) The kind of wine, shown as follows:

(i) If the wine contains 7 percent or more alcohol by volume and must have label approval under 27 CFR part 4, the kind of wine is the class, type, or other designation provided in that part.

(ii) If the wine has an exemption from label approval, an adequate statement of composition may be used instead of the class and type in 27 CFR part 4.

(iii) If the wine contains less than 7 percent alcohol by volume, an adequate statement of composition may be used instead of the class and type in 27 CFR part 4. The rules in 27 CFR part 4 pertaining to label approval and standards of fill do not apply to wine under 7 percent alcohol by volume. The rules in 27 CFR part 16 requiring a Health Warning Statement do apply to all wines over 1/2 percent alcohol. Except for the rules noted in this section, labeling of wines under 7 percent alcohol is under the jurisdiction of the Food and Drug Administration.

(iv) The statement of composition must include enough information to identify the tax class when viewed with the alcohol content. First, the wine should be identified by the word ''wine,'' ''mead,'' ''cider'' or ''perry,'' as applicable. If the wine contains more than 0.392 grams of carbon dioxide per 100 milliliters, the word ''sparkling'' or ''carbonated,'' as applicable, must be

included in the statement of composition. If the statement of composition leaves doubt as to the tax class of the wine, the wine must be marked ''tax class 5041(b)(1) IRC'' or an equivalent phrase. For example, a still wine marked ''wine'' and ''16 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(2). A still wine marked ''hard cider'' and ''9 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(1). A still wine marked ''raspberry hard cider'' and ''9 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(1). A still wine eligible for the hard cider tax rate marked ''cider'' or ''hard cider'' and ''6 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(6). However, if a still wine that is not eligible for the hard cider tax rate is marked ''cider'' or ''hard cider'' and ''6 percent alcohol by volume'' it is not adequately marked to identify its tax class as 5041(b)(1), so the tax class must be shown.

(5) The net content of the container unless the net content is permanently marked on the container as provided in 27 CFR part 4.

(b) The information shown on any label applied to bottled or packed wine is subject to the recordkeeping requirements of § 24.314. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1407, as amended (26 U.S.C. 5368, 5388, 5662))

(c) *Use of semi-generic designations*—(1) *In general.* Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

(i) There appears in direct conjunction therewith an appropriate appellation of origin, as defined in part 4 of this chapter, disclosing the true place of origin of the wine, and

(ii) The wine so designated conforms to the standard of identity, if any, for such wine contained in part 4 of this chapter or, if there is no such standard, to the trade understanding of such class or type.

(2) *Determination of whether a name is semi-generic*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, a name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Administrator.

(ii) *Certain names treated as semi-generic.* The following names shall be treated as semi-generic: Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, Tokay. (See: 26 U.S.C. 5368, 5388, 5662)

(Approved by the Office of Management and Budget under control number 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. ATF–350, 58 FR 52232, Oct. 7, 1993; T.D. ATF–398, 63 FR 44783, Aug. 21, 1998; T.D. ATF–470, 66 FR 58944, Nov. 26, 2001]

### § 24.258 Certificates of approval or exemption.

The proprietor shall obtain a certificate of label approval or a certificate of exemption from label approval as required by 27 CFR part 4. (August 29, 1935, ch. 814, Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205))

### § 24.259 Marks.

(a) *Required marks.* Each container larger than four liters or each case used to remove wine for consumption or sale will be durably marked to show the following information:

(1) The serial number or filling date as provided in § 24.260;

(2) The name (or trade name) and the registry number of the bottlers wine premises;

(3) The kind (class and type) and the alcohol content of the wine. The kind of wine and alcohol content will be stated in accordance with § 24.257. The formula number will be marked on bulk containers of special natural wine or other wine produced under § 24.218;

(4) The net contents of each container larger than four liters or each case in wine gallons, or for containers larger than four liters or cases filled according to metric measure, the contents in liters. If wine is removed in cases, the cases may be marked to show the number and size of bottles or other containers in each case in lieu of the net contents of the case; and

(5) Except for cases, the date of removal or shipment.

(b) *Application of marks.* Required marks may be cut, printed, or otherwise legibly and durably marked upon the container larger than four liters or the case or placed on a label or tag securely affixed to the case or container larger than four liters.

(c) *Location of marks.* Required marks will be placed on a container larger than four liters or on the side of a case for ready examination by appropriate TTB officers. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended, 1407, as amended (26 U.S.C. 5368, 5388, 5662))

(Approved by the Office of Management and Budget under control number 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.260 Serial numbers or filling date.

Each container larger than four liters or each case used for removing wine for consumption or sale will be marked with a serial number or filling date at the time of filling or when such containers or cases are prepared for removal. Serial numbers will commence with ''1'' and continue until the numeral ''1,000,000'' is reached, whereupon the series may recommence with the numeral ''1.'' However, the proprietor may initiate a new series after the numeral ''1,000,000'' has been reached provided no numeral will be used more than once during a 12-month period. If desired, a separate series of numbers with letter prefixes may be used for containers larger than four liters and for cases, or for cases filled on different bottling lines, or for removals from different loading docks. The proprietor may mark containers larger than four liters or the cases with the filling date in lieu of using a serial number or use both a serial number and the filling date. However, if the proprietor desires to change from the use of a serial number to use of a filling date, or *vice versa,* a notice will be sent to the appropriate TTB officer before making the change. Where United States or foreign wine is recased, the cases will be marked with the date of recasing, preceded by the letter ''R'', in lieu of serial number or filling date. (72 Stat. 1381; 26 U.S.C. 5367, 5368)

(Approved by the Office of Management and Budget under control number 1512–0503)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## Subpart M—Losses of Wine

### § 24.265 Losses by theft.

The proprietor shall be liable for and pay the tax on wine unlawfully removed while on bonded wine premises, or while in transit thereto or therefrom in bond, unless the proprietor or other person responsible for the tax, establishes to the satisfaction of the appropriate TTB officer that the theft did not occur as the result of connivance, collusion, fraud or negligence on the part of the proprietor or other person responsible for the tax or the owner, consignor, consignee, bailee, or carrier, or their agents or employees. (Sec. 201, Pub. L. 85–859, 72 Stat, 1381, as amended (26 U.S.C. 5370))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. ATF–432, 65 FR 69253, Nov. 16, 2000]

### § 24.266 Inventory losses.

(a) *General.* The proprietor shall take a physical inventory of all untaxpaid wine on-hand on bonded wine premises as of the close of business each tax year, or where a cycle different from the tax year has been established as provided in § 24.313, the inventory will be taken annually at the end of that cycle, or at any time required by an appropriate TTB officer. The physical inventory of bulk and bottled or packed wine will be recorded and reported as required by § 24.313.

(b) *Bulk wine losses.* The physical inventory of bulk wine will determine losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering since the previous physical inventory required by this section. A claim for allowance of loss, under the provisions of § 24.65, is required for inventory losses in production or storage:

(1) Where there are circumstances indicating that all or a part of the wine reported lost was unlawfully removed, or

(2) Where the loss on bonded wine premises during the annual period exceeds three percent of the aggregate volume of wine on-hand at the beginning of the annual period and the volume of wine received in bond during the annual period; or the loss exceeds six percent of the still wine produced by fermentation; or the loss exceeds six percent of the sparkling wine produced by fermentation in bottles; or the loss exceeds three percent of the special natural wine produced under § 24.195 or other wine produced under § 24.218; or the loss exceeds three percent of the artificially carbonated wine produced; or the loss exceeds three percent of the bulk process sparkling wine produced.

The percentage applicable to each tax class of wine will be calculated separately, unless the calculation is impracticable because of the mixture of different tax classes by addition of wine spirits or blending during the annual period, in which case the percentage will be calculated on the aggregate volume. Wine removed immediately after production for use as distilling material and on which the usual racking, clarifying, and filtering losses are not sustained, will not be included in the calculations.

(c) *Bottle and other container wine losses.* Wine filled into a bottle or other similar containers are not subject to losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering. In addition, wine that has been filled into a bottle or other similar containers can be accurately accounted for and any unexplained shortage is considered evidence of an unreported removal. Therefore, the proprietor shall pay the tax on any unexplained loss of untaxpaid bottled or packed wine disclosed by inventory or otherwise. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5369, 5370))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991]

### § 24.267 Losses in transit.

Where the loss in transit of bulk wine shipped in bond or the total daily bulk wine in bond shipments received in bond from the same winery exceeds one percent (two percent on transcontinental shipments) of the volume shipped, the proprietor of the receiving bonded wine premises shall immediately notify the appropriate TTB officer and file a claim under the provisions of § 24.65. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

### § 24.268 Losses by fire or other casualty.

The proprietor must immediately report any loss by theft, fire or other casualty, or any other extraordinary or unusual loss to the appropriate TTB officer. If required by the appropriate TTB officer, the proprietor must file a claim under the provisions of § 24.65. The volume of wine loss must be reported on TTB F 5120.17 for the reporting period during which the loss occurred. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

(Approved by the Office of Management and Budget under control number 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993; T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

## Subpart N—Removal, Return and Receipt of Wine

TAXPAID REMOVALS

### § 24.270 Determination of tax.

The tax on wine is determined at the time of removal from a bonded wine premises for consumption or sale. Section 5041 of title 26, United States Code, imposes an excise tax, at the rates prescribed, on all wine (including imitation, substandard, or artificial wine, and compounds sold as wine, which contain 24 percent or less of alcohol by volume) produced in or imported into the United States. Wine

containing more that 24 percent of alcohol by volume is classed as distilled spirits and taxed accordingly. The tax is determined and paid on the volume of wine:

(a) In bottles or other containers filled according to United States measure recorded to the nearest 10th gallon; or,

(b) In bottles or other containers filled according to metric measure, on the volume of wine in United States wine gallons to the nearest 10th gallon; or

(c) In the case of pipeline removals, on the volume of bulk wine removed recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon. (Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

See §§ 24.278 and 24.279 of this part for regulations concerning credit against the wine tax for certain bonded wine premises proprietors.

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–307, 55 FR 52737, Dec. 21, 1990]

### § 24.271 Payment of tax by return with remittance.

(a) *General.* The tax on wine is paid by an Excise Tax Return, Form 5000.24, which is filed with remittance (check, cash, or money order) for the full amount of tax due. Prepayments of tax on wine during the period covered by the return are shown separately on the Excise Tax Return form. If no tax is due for the return period, the filing of a return is not required.

(b) *Return periods and due dates*—(1) *Return periods.* (i) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means the taxpayer was not liable for more than $50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

*Taxpayer.* A *taxpayer* is a person who is liable for excise tax imposed with respect to wine by 26 U.S.C. 5041 and 7652 under the same Employer Identification Number as defined in 26 CFR 301.7701–12.

(ii) *Semimonthly return period.* Except in the case of a taxpayer who qualifies for, and chooses to use, the annual return period as provided in § 24.273 or the quarterly return period as provided in paragraph (b)(1)(iii) of this section, all taxpayers who have filed a bond for deferred payment of taxes must use semimonthly return periods. The semimonthly return periods shall run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (c) of this section.

(iii) *Quarterly return period.* Effective January 1, 2006, a taxpayer who has filed a bond for deferred payment of taxes, who reasonably expects to be liable for not more than $50,000 in taxes with respect to wine imposed by 26 U.S.C. 5041 and 7652 for the current calendar year, and who was liable for not more than $50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds $50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(2) *Semimonthly and quarterly tax return due dates.* The taxpayer shall file the semimonthly or quarterly return, with remittance, for each return period not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday, except as otherwise provided in paragraph (c)(3) of this section.

(c) *Special September rule for taxes due by semimonthly return*(1) *Division of second semimonthly period*—(i) *General.* Except as provided in paragraph (c)(1)(ii)

of this section, the second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16–26, no later than September 29. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 24.272, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16–25, no later than September 28. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 26–30, no later than October 14.

(2) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (c)(1)(i) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (c)(1)(ii) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(3) *Last day for payment.* If the required due date for taxpayment for the periods September 16–25 or September 16–26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(4) *Example. Payment of tax for the month of September.* (i) *Facts.* X, a proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of $30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of $45,000, and for the period September 27–30, X incurred tax liability in the amount of $2,000.

(ii) *Payment requirement.* X's payment of tax in the amount of $30,000 for the first semimonthly period of September is due no later than September 29 (§ 24.271(b)). X's payment of tax for the period September 16–26 is also due no later than September 29 (§ 24.271(c)(1)(i)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16–26 (§ 24.271(c)(2)). Under the safe harbor rule, X's payment of tax must equal $21,990.00, 11/15ths of the tax liability incurred during the first semimonthly period of September. Additionally, X's payment of tax in the amount of $2,000 for the period September 27–30 must be paid no later than October 14 (§ 24.271(c)(1)(i)). X must also pay the underpayment of tax, $23,010.00, for the period September 16–26, no later than October 14 (§ 24.271(c)(2)).

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–365, 60 FR 33668, June 28, 1995; T.D. TTB–41, 71 FR 5602, Feb. 2, 2006]

### § 24.272 Payment of tax by electronic fund transfer.

(a) *General.* (1) During a calendar year any proprietor who is liable for a gross amount of wine excise tax equal to or exceeding $5 million combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall during the succeeding calendar year use a financial institution in making payment by electronic fund transfer (EFT) of wine taxes for that year. A proprietor who is required by this section to make remittance by EFT may not effect payment of wine taxes by cash, check, or money order as described in § 24.271.

(2) For the purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including wines brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawback, credit, or refund, for all premises from which the activities are conducted by the proprietor.

(3) For the purposes of this section, a proprietor includes a controlled group of corporations, as defined in 26 U.S.C. 5061 (e)(3). Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50 percent control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(4) A proprietor who is required by this section to make remittances by EFT shall, for each bonded wine premises from which wine is withdrawn upon determination of tax, make a separate EFT remittance and file a separate tax return.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a proprietor already remitting the tax by EFT, each proprietor who was liable during the previous calendar year for a gross amount of wine excise tax equal to or exceeding $5 million, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall give written notice to the appropriate TTB officer agreeing to make remittances by EFT.

(2) For each return filed in accordance with this subpart, the proprietor shall direct the proprietor's financial institution to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request will be made to the financial institution early enough for the transfer of funds to be made to the Treasury Account by no later than the close of business on the last day for filing the return as prescribed in § 24.271. The request will take into account any time limit established by the financial institution.

(3) If the proprietor was liable during the preceding calendar year for less than $5 million in wine excise taxes, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, the proprietor may choose either to continue remitting the tax as provided in this section or to remit the tax with return as prescribed by § 24.271. Upon filing the first return on which the proprietor chooses to discontinue remittance of the tax by EFT and to begin remittance of the tax with the tax return, the proprietor shall notify the appropriate TTB officer by attaching a written notification to the tax form stating that no wine excise tax is due by EFT because the tax liability during the preceding calendar year was less than $5 million, and that the remittance will be filed with the tax return.

(c) *Remittance.* (1) The proprietor shall show on the tax return information about remitting the tax for that return by EFT and shall file the return with TTB in accordance with the instructions on the tax form.

(2) Remittances will be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer will be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the proprietor directs the financial institution to effect an electronic fund transfer message as required by paragraph (b) (2) of this section, the transfer data record furnished to the proprietor through normal banking procedures will serve as the record of payment, and will be retained as part of the required records.

(d) *Failure to make a taxpayment by EFT.* The proprietor is subject to a penalty imposed by 26 U.S.C. 5684, 6651, and 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the proprietor an TTB Procedure entitled, Payment of Tax by

Electronic Fund Transfer. This publication outlines the procedure a proprietor follows when preparing returns and EFT remittances in accordance with this subpart. The United States Customs Service will provide the proprietor with instructions for preparing EFT remittances for payments to be made to the United States Customs Service for payment of excise tax on imported wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, 13685, Mar. 22, 1999; T.D. ATF–459, 66 FR 38550, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002]

### § 24.273 Exception to filing semimonthly or quarterly tax returns.

(a) *Eligibility for annual filing.* A proprietor may file the Excise Tax Return, Form 5000.24, and remittance, within 30 days after the end of the calendar year instead of semimonthly or quarterly as provided in § 24.271, if the proprietor has not given a bond for deferred payment of wine excise tax and if the proprietor:

(1) Paid wine excise taxes in an amount less than $1,000 during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than $1,000 in wine excise taxes before the end of the calendar year.

(b) *Loss of eligibility for annual filing.* (1) If before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals $1,000 or more, the proprietor will commence semimonthly or quarterly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

(2) If there is a jeopardy to the revenue, the appropriate TTB officer may deny the exceptions to filing tax returns provided in this section at any time.

(c) *Other rules apply.* A proprietor who files under this section is subject to the failure to pay or file provisions of § 24.274.

[T.D. TTB–41, 71 FR 5602, Feb. 2, 2006]

### § 24.274 Failure to timely pay tax or file a return.

Penalties for failure to pay tax at the time required, for willful refusal to pay the tax and for fraudulent nonpayment of tax are provided for in 26 U.S.C. 5661 and 6656. In addition to these penalties, there is a penalty for the delinquent filing of a tax return, imposed as an addition to the tax shown on the return, amounting to five percent for each month or fraction thereof of the delinquency, not exceeding 25 percent in the aggregate, unless it is shown that the delinquency is due to reasonable cause and not to willful neglect. (Sec. 201, Pub. L. 85–859, 72 Stat. 1407, as amended, 1410, as amended (26 U.S.C. 5661, 5684, 6651, 6656))

### § 24.275 Prepayment of tax.

(a) *General.* The proprietor shall, before removal of wine for consumption or sale, file Excise Tax Return, TTB F 5000.24, with remittance, where:

(1) Required to prepay tax under § 24.276; or,

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which tax has been determined but not paid.

The return with remittance is forwarded pursuant to the instructions printed on the return. For the purpose of complying with this section, the term ''forwarding'' means deposit in the United States mail properly addressed to TTB.

(b) *Electronic fund transfer.* When the proprietor is required by § 24.272 to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by:

(1) Completing the Excise Tax Return and by mailing it, as instructed on the form, to TTB and

(2) Directing the proprietor's financial institution to effect an electronic fund transfer. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.276 Prepayment of tax; proprietor in default.

When the proprietor fails to forward a payment for wine excise tax due by presentment of a check or money order, or when the proprietor is otherwise in default of payment of the tax, no wine may be removed for consumption or sale until the tax has been paid for the period of the default and until the appropriate TTB officer finds the revenue will not be jeopardized by the late payment of the tax. Any remittance made during the period of the default will be in cash, or will be in the form of a certified, cashier's, or treasurer's check drawn on any financial institution incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a money order, as provided in 27 CFR 70.61 (payment by check or money order) or in the form of an electronic fund transfer. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391 as amended (26 U.S.C. 6301, 6311, 6302))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–301, 55 FR 47605, Nov. 14, 1990; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

### § 24.277 Date of mailing or delivering of returns.

(a) When the proprietor sends the Excise Tax Return, TTB F 5000.24, with or without remittance, by United States mail, the official postmark of the United States Postal Service stamped on the cover of the envelope in which the return was mailed is considered the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. When the postmark on the cover is illegible, it is the proprietor's responsibility to prove when the postmark was made.

(b) When the proprietor sends the tax return by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, is treated at the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

### § 24.278 Tax credit for certain small domestic producers.

(a) *General.* A person who produces not more than 250,000 gallons of wine during the calendar year may take a credit against any tax imposed by Title 26 of the United States Code (other than Chapters 2, 21, and 22), in an amount computed in accordance with paragraph (d) of this section, on the first 100,000 gallons of wine (other than champagne and other sparkling wine) removed during that year for consumption or sale. This credit applies only to wine that has been produced at a qualified bonded wine premises in the United States. The small domestic wine producer tax credit is available

only to eligible proprietors engaged in the business of producing wine. A proprietor who has a basic permit to produce wine but does not produce wine during a calendar year may not take the small producer wine tax credit on wine removed during that calendar year. A proprietor who has obtained a new wine producer basic permit may not take the small producer wine tax credit on wine removed until the proprietor has produced wine. ''Production'' of wine includes those activities described in paragraph (e)(1) of this section.

(b) *Special rules relating to eligibility for wine credit*—(1) *Controlled groups.* For purposes of this section and § 24.279, the term ''person'' includes a controlled group of corporations, as defined in 26 U.S.C. 1563(a), except that the phrase ''more than 50 percent'' must be substituted for the phrase ''at least 80 percent'' wherever it appears. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups that include partnerships and/or sole proprietorships. Production and removals of all members of a controlled group are treated as if they were the production and removals of a single taxpayer for the purpose of determining what credit a person may use.

(2) *Credit for transferees in bond.* A person other than the eligible small producer (hereafter in this paragraph referred to as the ''transferee'') may take the credit under paragraph (a) of this section that would be allowed to that producer if the wine removed by the transferee had been removed by the producer on that date, under the following conditions:

(i) Wine produced by any person would be eligible for any credit under this section if removed by that person during the calendar year;

(ii) Wine produced by that person is removed during that calendar year by the transferee to whom that wine was transferred in bond and who is liable for the tax imposed by 26 U.S.C. 5041 with respect to that wine;

(iii) That producer holds title to that wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph; and

(iv) At the time of taxable removal, the producer provides to the transferee, in writing (each retaining a copy with the record of taxpaid removal from bond pursuant to § 24.310), the following information:

(A) The names of the producer and transferee;

(B) The quantity and tax class of the wines to be shipped;

(C) The date of removal from bond for consumption or sale;

(D) A confirmation that the producer is eligible for credit, with the credit rate to which the wines are entitled; and

(E) A confirmation that the subject shipment is within the first 100,000 gallons of eligible wine removed by (or on behalf of) the producer for the calendar year.

(c) *Time for determining and allowing credit.* The credit referred to in paragraph (a) of this section will be determined at the same time as the tax is determined under 26 U.S.C. 5041(a), and will be allowable at the time any tax described in paragraph (a) of this section is payable. The credit allowable by this section is treated as if it constitutes a reduction in the rate of the tax.

(d) *Computation of credit.* The credit which may be taken on the first 100,000 gallons of wine (other than champagne and other sparkling wine) removed for consumption or sale by an eligible person during a calendar year is computed as follows:

(1) For persons who produce 150,000 gallons or less of wine during the calendar year, the credit is $0.90 per gallon for wine ($0.056 for hard cider);

(2) For persons who produce more than 150,000 gallons but not more than 250,000 gallons during the calendar year, the credit is reduced by 1 percent for every 1,000 gallons produced in excess of 150,000 gallons. For example, the credit that would be taken by a person who produced 160,500 gallons of wine and hard cider during a calendar year would be reduced by 10 percent, for a net credit against the tax of $0.81 per gallon for wine or $0.0504 for hard cider, as long as the wine or hard cider was among the first 100,000 gallons removed

for consumption or sale during the calendar year.

(e) *Definitions*—(1) *Production.* For purposes of determining if a person's production of wine is within the 250,000 gallon limit, production includes, in addition to wine produced by fermentation, any increase in the volume of wine due to the winery operations of amelioration, wine spirits addition, sweetening, or production of formula wine. Production of champagne and other sparkling wines is included for purposes of determining whether total production of a winery exceeds 250,000 gallons. Production includes all wine produced at qualified bonded wine premises within the United States and wine produced outside the United States by the same person.

(2) *Removals.* For purposes of determining if a person's removals are within the 100,000 gallon limit, removals include wine that the person removed from all qualified bonded wine premises within the United States. Wine removed by a transferee in bond under paragraph (b)(2) of this section must be counted against the 100,000 gallon limit of the small producer who owns that wine, and not against the limit of the transferee in bond if the transferee is also a small producer. Champagne and other sparkling wines, which are not eligible for credit, do not count as removals against the 100,000 gallon limit.

(f) *Preparation of tax return.* A person who is eligible for the credit must show the amount of wine tax before credit on the Excise Tax Return, TTB F 5000.24, and must enter the quantity of wine subject to the credit and the applicable credit rate as the explanation for an adjusting entry in Schedule B of the return for each tax period. Where a person does not use the credit authorized by this section to directly reduce the rate of Federal excise tax on wine, that person must report on TTB F 5000.24 where the credit will be, or has been, applied. Where a transferee in bond takes credit on behalf of one or more small producers, the transferee must show in Schedule B of the return the name of each producer, each producer's credit rate, and the total credit taken on behalf of each producer during the tax return period.

(g) *Denial of deduction.* Pursuant to 26 U.S.C. 5041(c)(5), any deduction under 26 U.S.C. subtitle A with respect to any tax against which the credit is allowed under paragraph (a) of this section must only be for the amount of the tax as reduced by the credit.

(h) *Exception to credit.* The appropriate TTB officer will deny any tax credit taken under paragraph (a) of this section where it is determined that the allowance of the credit would benefit a person who would otherwise fail to qualify for the use of the credit.

(26 U.S.C. 5041(c).)

(Approved by the Office of Management and Budget under control number 1513–0104)

[T.D. TTB–64, 72 FR 65454, Nov. 21, 2007]

### § 24.279 Tax adjustments related to wine credit.

(a) *Increasing adjustments.* Persons who produce more wine than the amount used in computation of the credit, or who lose eligibility by not producing during a calendar year, must make increasing tax adjustments. Where an increasing adjustment to a person's tax return is necessary as a result of an incorrect credit rate claimed pursuant to § 24.278, that person must make the adjustment on the Excise Tax Return, TTB F 5000.24, no later than the return period in which production (or the production of the controlled group of which the person is a member) exceeds the amount used in computation of the credit. If the adjustment is due to failure to produce, the person must make the adjustment no later than the last return period of the calendar year. The adjustment is the difference between the credit taken for prior return periods in that year and the appropriate credit for those return periods. The person must make tax adjustments for all bonded wine premises where excess credits were taken against tax that year, and must include interest payable. In the case of a person who continued to deduct credit after reaching the 100,000 gallon maximum during the calendar year, that person must make an adjustment in the full amount of excess credit taken and must include interest payable under 26 U.S.C. 6601 from the date on which the excess credit was taken.

In addition, the person must include the penalty payable under 26 U.S.C. 6662 if the appropriate TTB officer determines that the underpayment was due to negligence or disregard of rules or regulations and advises the person to include the penalty as part of the adjustment. The appropriate TTB officer will provide information, when requested, regarding interest rates applicable to specific time periods and regarding any applicable penalties. In the case of a controlled group of bonded wine premises that took excess credits, all member proprietors who took incorrect credits must make tax adjustments as determined in this section. In the case of a small producer who instructed a transferee in bond to take credit as authorized by § 24.278(b)(2), and subsequently determines that the credit was less or not applicable, that producer must immediately inform the transferee in bond, in writing, of the correct credit information. The transferee must make any increasing adjustment on its next tax return based on revised credit information given by the producer or a TTB officer.

(b) *Decreasing adjustments.* Where a person fails to deduct the credit or deducts less than the appropriate credit provided for by § 24.278 during the calendar year, the person may file a claim for refund of excess tax paid. The claim must be filed in accordance with § 24.69. In the case of wine removed on behalf of a small producer by a transferee in bond, if the transferee in bond was instructed to deduct credit and failed to deduct credit or deducted less than the appropriate credit and was later reimbursed for the tax by that producer, the transferee may file the claim. The provisions of 26 U.S.C. 6423 and 27 CFR part 70, subpart F, will apply, and the producer and transferee in bond must show that the conditions of § 24.278(b)(2) were met.

(26 U.S.C. 5041(c))

(Approved by the Office of Management and Budget under control number 1513–0088)

[T.D. TTB–64, 72 FR 65455, Nov. 21, 2007]

TRANSFER OF WINE IN BOND

### § 24.280 General.

Wine may be removed for transfer in bond, from one bonded wine premises to another bonded wine premises or to a distilled spirits plant. For bulk wine transferred in bond between adjacent or contiguous bonded wine premises or to an adjacent or contiguous distilled spirits plant, an accurately calibrated tank for measuring the wine is required on at least one of the premises. The volume of wine transferred will be recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

### § 24.281 Consignor premises.

Prior to transferring wine in bond, the proprietor shall prepare a transfer record prescribed by § 24.309. Except for multiple transfers as provided in § 24.282, a transfer record will be prepared for each shipment. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record for the files and forward the original to the consignee (by the close of the next business day). (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362)

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991]

### § 24.282 Multiple transfers.

(a) *Truck.* The proprietor may use one transfer record for all wine shipped by truck on the same day to other premises. The proprietor shall prepare a shipment or delivery order for each shipment showing date of transfer, name and address of the proprietor and consignee, number of cases or containers, serial numbers of cases (if any) or container identification marks, and quantity shipped in gallons or liters. A copy of the shipping or delivery order will be retained by the proprietor and a copy sent with the shipment. On completion of lading the last truck for the day, the proprietor shall prepare and

process a transfer record as provided in § 24.281.

(b) *Pipeline.* The proprietor may use one transfer record for all wine (including distilling material and vinegar stock) transferred by pipeline to adjacent premises during a month. At the end of the month, the proprietor shall prepare and process a transfer record as provided in § 24.281. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C 5362))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.283 Reconsignment.

Prior to or on arrival at the premises of a consignee, wine transferred in bond may be reconsigned by the consignor. The bond of the proprietor to whom the wine is reconsigned will cover the wine while in transit after reconsignment. Notice of cancellation of the shipment will be made to the other proprietors involved by the proprietor who reconsigned the wine. Where reconsignment is to other than the shipping proprietor, a new transfer record prominently marked ''Reconsignment'' will be prepared and processed as provided by § 24.281. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C 5362))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.284 Consignee premises.

When wine is received by transfer in bond, the consignee shall check the shipment against the transfer record and determine by volumetric measure or weight the quantity received. The date received and, if different from the quantity shipped, the quantity received will be recorded on the transfer record. See § 24.267 for provisions applicable to losses in transit. Sealed containers or cases received without apparent loss need not be measured or weighed. The consignee will retain the original of the transfer record and any accompanying documents. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

(Approved by the Office of Management and Budget under control number 1512–0298)

## REMOVALS WITHOUT PAYMENT OF TAX

### § 24.290 Removal of wine as distilling material.

(a) *General.* Still wine may be removed without payment of tax to the production facilities of a distilled spirits plant for use as distilling material. The volume of distilling material may be determined at either the bonded wine premises or the distilled spirits plant.

(b) *Special natural wine.* Unmarketable special natural wine may be removed to a distilled spirits plant for use as distilling material in the production of wine spirits (but not brandy). Where sugar has been used in the production of special natural wine, the wine may not be removed for use as distilling material if the unfermented sugars therein have been fermented prior to the removal. If wine spirits produced from special natural wine contain any flavor characteristics of the special natural wine, the wine spirits may be used only in the production of a special natural wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended, 1395, as amended (26 U.S.C. 5362, 5373, 5552))

### § 24.291 Removal of wine for vinegar production.

(a) *General.* Still wine may be removed from bonded wine premises, without payment of tax, for use in the manufacture of vinegar. Where the proprietor is also the proprietor of a vinegar plant located adjacent or contiguous to the bonded wine premises, wine may be removed without payment of tax upon filing a consent of surety extending the terms of the wine bond to cover the removal and use of wine in the manufacture of vinegar. Where the proprietor of a vinegar plant is not the proprietor of an adjacent or contiguous bonded wine premises, the proprietor of the vinegar plant may receive wine, without payment of tax, for use in the manufacture of vinegar by filing a bond under the provisions of § 24.146(c) to cover the removal to and use of wine at the vinegar plant.

(b) *Vinegar plant records.* Each proprietor of a vinegar plant to which wine is shipped, without payment of tax, for use in the manufacture of vinegar shall

keep a record of all wine received and used for the manufacture of vinegar and of all vinegar produced and disposed of. The record will show the following information:

(1) The volume and alcohol content of all wine received, the date of receipt, and the name, registry number, and address of the bonded wine premises from which received;

(2) The volume and alcohol content of all wine used in the manufacture of vinegar, and the date of use;

(3) The volume and grain strength of the vinegar produced, and the date of production. (This volume will be reported on a 100-grain strength basis and will be determined by multiplying the wine gallons of vinegar produced by the grain strength thereof and dividing the result by 100); and

(4) The names and addresses of all persons to whom vinegar is shipped, the volume and grain strength shipped to each, and the date of shipment. (Grain strength is a measure of the acetic acid content of vinegar, expressed as 10 times the grams of acetic acid per 100 mL).

(c) *Inspection of vinegar plants.* The proprietor of a vinegar plant receiving wine, without payment of tax, for use in the manufacture of vinegar shall make the premises and records available for inspection by appropriate TTB officers during regular business hours. (August 16, 1954, ch. 736, 68A Stat. 903, as amended (26 U.S.C. 7606); Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

(Approved by the Office of Management and Budget under control numbers 1512–0058, 1512–0292 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.292 Exported wine.

(a) *General.* Wine may be removed from a bonded wine premises without payment of tax for exportation, for use on vessels and aircraft, for transportation to and deposit in a ''Class 6'' manufacturing bonded warehouse, for transfer to and deposit in a customs bonded warehouse, and for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation. Removals of wine for export will be in accordance with the procedures in part 28 of this chapter.

(b) *Return of wine to bonded storage.* Wines which have been lawfully withdrawn, without payment of tax, under the provisions of part 28 of this chapter may be returned to bonded wine premises from which withdrawn for storage pending subsequent removal for lawful purposes. On return of wine to bonded wine premises, the proprietor shall record the receipt showing the gallonage of each tax class received and returned to storage on bonded wine premises and shall report the return on the TTB F 5120.17, Report of Bonded Wine Premises Operations for the reporting period with an explanatory notation. All provisions of this part applicable to wine in bond at bonded wine premises and to removals from bond are applicable to returned wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19065, Apr. 12, 1993; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 24.293 Wine for Government use.

(a) *General.* Wine may be removed from bonded wine premises, free of tax, for use of the Government of the United States, or any agency thereof, upon receipt of a proper Government order signed by the officer in charge of the department, institution, station, or similar establishment, to which the wine is to be shipped or other officer duly authorized to sign the order. The governmental order will show the kind, quantity and alcohol content of the wine desired; and the purpose for which the wine is to be used. Wine may also be removed for use by the governments of the several states and the District of Columbia, or of any subdivision thereof, or by any agency of the governments, free of tax, from bonded wine premises for analysis, testing, research or experimentation.

(b) *Bill of lading and report of shipment.* Where wine is shipped by common carrier, the proprietor shall retain a copy of the bill of lading, covering the shipment, with the TTB F 5120.17,

Report of Bonded Wine Premises Operations for the reporting period in which the shipment is made. The bill of lading will show the name and address of the agency to which the wine is shipped, identifying marks on containers or cases, and alcohol content of the wine. The governmental order, or a copy of the order, will be filed at the bonded wine premises available for inspection by appropriate TTB officers. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended (26 U.S.C. 5362, 5367, 7510))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. ATF–338, 58 FR 19065, Apr. 12, 1993; T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.294 Destruction of wine.

(a) *General.* Wine on bonded wine premises may be destroyed on or off wine premises by the proprietor without payment of tax. A proprietor who wants to destroy wine on or off wine premises must file with the appropriate TTB officer an application stating the kind, alcohol content, and approximate volume of wine to be destroyed, where the wine is to be destroyed, and the reason for destruction. Wine to be destroyed must be inspected, and the destruction supervised, by an appropriate TTB officer unless the appropriate TTB officer authorizes the proprietor to destroy the wine without inspection and supervision. The wine must not be destroyed until the proprietor has received authority from the appropriate TTB officer.

(b) *Record of destruction.* The proprietor shall maintain a record of the volume destroyed and include the quantity on the TTB F 5120.17, Report of Bonded Wine Premises Operations. If part of the volume of the material destroyed is not wine, the volume destroyed will be reported on the basis of actual wine content of the material, excluding any dilution by water or other substance. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5370))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19065, Apr. 12, 1993; T.D. ATF–409, 64 FR 13686, Mar. 22, 1999]

## RETURN OF UNMERCHANTABLE WINE TO BOND

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

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

(b) *Receipt.* The quantity of unmerchantable taxpaid United States wine returned to bond is determined upon receipt on bonded wine premises. The quantity determined will be entered on the TTB F 5120.17, Report of Bonded Wine Premises Operations for the reporting period during which the United States wine is returned.

(c) *Records.* The proprietor shall maintain records covering each lot of unmerchantable taxpaid wine returned to bond in accordance with § 24.312. (Sec. 201, Pub. L. 85–859, 72 Stat. 1332,

as amended, 1382, as amended (26 U.S.C. 5044, 5371))

(Approved by the Office of Management and Budget under control numbers 1512–0216, 1512–0298 and 1512–0492)

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TAXPAID WINE OPERATIONS

### § 24.296 Taxpaid wine operations.

(a) *General.* The proprietor may conduct taxpaid wine operations authorized by § 24.102 in an area designated as a taxpaid wine premises at a bonded wine premises or at a taxpaid wine bottling house. Taxpaid foreign wine may be received on the taxpaid wine premises for reconditioning and removal without retaxpayment or for destruction without credit of tax. Any taxpaid wine operations will be separate from all nontaxpaid wine operations and taxpaid wine will be clearly identified as provided in § 24.135. The appropriate TTB officer may require any additional segregation and identification of taxpaid wine operations as deemed necessary to protect the revenue.

(b) *Treatment and blending.* Taxpaid wine may be treated with sulfur dioxide compounds, refrigeration or pasteurization and may also be preserved, filtered or clarified by the use of methods or materials which will not change the basic character of the wine. Water may not be added to taxpaid wine. The proprietor who desires to treat wine in any manner (other than by simple filtration or the use of sulfur compounds, refrigeration or pasteurization) shall first file with the appropriate TTB officer an application giving the details of the proposed treatment. The proprietor may not use the treatment prior to approval. The proprietor may incur civil or criminal liability for using an unauthorized treatment of untaxpaid wine. Wine of the same kind (class and type), national origin and tax class may only be mixed to facilitate handling at a taxpaid wine bottling house; otherwise, the blending of taxpaid wine on such premises is prohibited. Taxpaid wine of different national origins, but of the same kind and tax class, may only be blended on taxpaid wine premises. (Sec. 201, Pub. L. 85–859, 72 Stat. 1407 (26 U.S.C. 5352, 5661))

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

## Subpart O—Records and Reports

### § 24.300 General.

(a) *Records and reports.* A proprietor who conducts wine operations shall maintain wine transaction records and submit reports as required by this part. Transaction records may be recorded in wine gallons or in liters. However, required reports will show wine volumes in wine gallons. The equivalent wine gallons of wine bottled or packed and labeled according to metric measure will be determined using the following conversion factors:

(1) *Per case.* Equivalent gallonage may be determined using the following conversion factors for cases of metric bottles:

| Bottles per case | Net content each bottle | Equivalent gallonage |
|---|---|---|
| 120 | 50 mL | 1.58502 |
| 60 | 100 mL | 1.58502 |
| 48 | 187 mL | 2.37119 |
| 24 | 375 mL | 2.37753 |
| 12 | 750 mL | 2.37753 |
| 12 | 1 liter | 3.17004 |
| 6 | 1.5 liter | 2.37753 |
| 4 | 3 liter | 3.17004 |

(2) *Per liter.* Equivalent gallonage may be determined by multiplying total liters by a conversion factor of 0.26417 gallons per liter.

(b) *Time of making entries.* Any operation or transaction is to be entered in records or commercial papers at the time the operation or transaction occurs, except that where records are posted from source records or from supplemental auxiliary records prepared at the time the operation or transaction occurs, entries in another record may be deferred to not later than the close of business of the third business day succeeding the day on which the operation or transaction occurs. The proprietor shall retain all source records and all supplemental or auxiliary records which support entries in other records or commercial papers in

order to facilitate verification of operations by appropriate TTB officers. Source records and supplemental or auxiliary records may be used as a record of an operation or transaction and to prepare the TTB F 5120.17, Report of Bonded Wine Premises Operations, provided the record will readily allow for verification of an operation or transaction by appropriate TTB officers.

(c) *Prescribed forms.* All reports required by this part must be submitted on forms prescribed by § 24.20. Entries will be made as indicated by the headings of the columns and lines, and as required by the instructions for the form. Report forms are furnished free of cost.

(d) *Period of retention.* All prescribed returns, reports and records (including source records) will be retained by the proprietor for a period of not less than three years from the record date or the date of the last entry required to be made in the record, whichever is later. However, the appropriate TTB officer may require records to be kept an additional period not exceeding three years in any case where retention is determined to be necessary.

(e) *Data processing.* (1) Notwithstanding any other provision of this section, data maintained on data processing equipment may be kept at a location other than the wine premises if the original operation or transaction source records required by this subpart are kept available for inspection at the wine premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted recording media will be retrievable within five business days.

(3) The applicable data processing program will be made available for examination if requested by an appropriate TTB officer.

(f) *Photographic copies of records.* The proprietor may record, copy, or reproduce records required by this part and may use any process which accurately reproduces the original record and which forms a durable medium for reproducing and preserving the original record. 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 record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this paragraph, ''original record'' means the record required to be maintained or preserved by the proprietor, even though it may be an executed duplicate or other copy of the document.

(g) *F 5120.17, Report of Bonded Wine Premises Operations.* A proprietor who conducts bonded wine premises operations must complete and submit a F 5120.17 in accordance with the instructions on the form.

(1) *Monthly report.* The proprietor must submit F 5120.17 on a monthly basis, except as otherwise provided in paragraph (g)(2) or (g)(3) of this section.

(2) *Quarterly or annual report.* (i) *General.* A proprietor may file a completed F 5120.17 on a quarterly or annual basis if the proprietor meets the criteria in paragraph (g)(2)(ii) or (g)(2)(iii) of this section. To begin the quarterly or annual filing of a report of bonded wine premises operations, a proprietor must state the intent to do so in the ''Remarks'' section when filing the prior month's F 5120.17. A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the appropriate TTB officer and file F 5120.17 quarterly or annually for the remaining portion of the calendar year. If a proprietor becomes ineligible for quarterly or annual filing by exceeding the applicable tax liability or activity limit, the proprietor must file F 5120.17 for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the appropriate TTB officer may at any time require any proprietor otherwise eligible for quarterly or annual filing of a report of bonded wine premises operations to file such report monthly.

(ii) *Eligibility for quarterly report filing.* In order to be eligible to file F 5120.17 on a quarterly basis, the proprietor must be filing quarterly tax returns under § 24.271, and the proprietor

must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 60,000 gallons for any one quarter during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for.

(iii) *Eligibility for annual report filing.* In order to be eligible to file F 5120.17 on an annual basis, the proprietor must be filing annual tax returns under § 24.273, and the proprietor must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for.

(3) *No reportable activity.* A proprietor who files a monthly F 5120.17 and does not expect an inventory change or any reportable operations to be conducted in a subsequent month or months may attach to the filed F 5120.17 a statement that, until a change in the inventory or a reportable operation occurs, a F 5120.17 will not be filed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5555))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

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## § 24.301 Bulk still wine record.

A proprietor who produces or receives still wine in bond, (including wine intended for use as distilling material or vinegar stock to which water has not yet been added) shall maintain records of transactions for bulk still wine. Records will be maintained for each tax class of still wine including the date the transaction occurred. The bulk still wine record will contain the following:

(a) The volume produced by fermentation in wine gallons determined by actual measurement;

(b) The volume received, shipped taxpaid, removed (e.g., taxpaid, in bond, export, family use, samples) and used in sparkling wine production; if a tax credit under 26 U.S.C. 5041(c) may be claimed, the record will be maintained in sufficient detail to insure that such a tax credit is properly claimed;

(c) The specific type of production method used, e.g., natural fermentation, amelioration, sweetening, addition of spirits, blending;

(d) The volume of wine used and produced by amelioration, addition of spirits or sweetening, as determined by measurements of the wine before and after production.

(e) The volume of wine used for and produced by blending, if wines of different tax classes are blended together;

(f) The volume of wine used to produce formula wine, vinegar stock and distilling material;

(g) The volume of wine removed to fermenters for refermentation or removed directly to the production facilities of a distilled spirits plant or vinegar plant;

(h) Where a process authorized under § 24.248 is employed, records will be maintained to allow for verification of any limitation specified for the process employed and to ensure that the use of the process is consistent with good commercial practice;

(i) Where a treating material is dissolved or dispersed in water as authorized in this part, the volume of water added to the wine;

(j) An explanation of any unusual transaction. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367)); and

(k) If the proprietor is an importer of wine to which the provisions of § 27.140 of this chapter apply, any certification or other records required at the time of release from customs custody under that section.

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–307, 55 FR 52738, Dec. 21, 1990; T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. TTB–31, 70 FR 49483, Aug. 24, 2005]

### § 24.302 Effervescent wine record.

A proprietor who produces or receives sparkling wine or artificially carbonated wine in bond shall maintain records showing the transaction date and details of production, receipt, storage, removal, and any loss incurred. Records will be maintained for each specific process used (bulk or bottle fermented, artificially carbonated) and by the specific kind of wine, e.g., grape, pear, cherry. The record will contain the following:

(a) The volume of still wine filled into bottles or pressurized tanks prior to secondary fermentation or prior to the addition of carbon dioxide;

(b) The quantity of any first dosage used;

(c) Any in-process bottling losses, e.g., refilling, spillage, breakage;

(d) The volume of bottle fermented sparkling wine in process, transferred and received;

(e) The volume returned to still wine;

(f) The quantity of any finishing dosage used (See § 24.192);

(g) The volume of finished sparkling wine or artificially carbonated wine bottled or packed (amount produced);

(h) The quantity of each item used in the production of dosages, e.g., wine, sugar, spirits;

(i) An explanation of any unusual transaction. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367)); and

(j) If the proprietor is an importer of wine to which the provisions of § 27.140 of this chapter apply, any certification or other records required at the time of release from customs custody under that section.

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. TTB–31, 70 FR 49483, Aug. 24, 2005]

### § 24.303 Formula wine record.

A proprietor who produces beverage formula wine shall maintain records showing by transaction date the details of production. The formula wine record will contain the following:

(a) A number for each lot produced;

(b) The approved formula number for each lot;

(c) The volume of wine used in the production;

(d) The volume produced and the gain or loss resulting from the production of each lot as determined by comparing the volume finished with the volume used (report the total loss or gain on the TTB F 5120.17 for the period in question);

(e) An explanation of any unusual loss or gain;

(f) The production of essences showing the formula number, quantities of spirits and herbs used, and the amount produced;

(g) The quantity of essences purchased, and the use, transfer or other disposition of essences produced or purchased; and

(h) A record of the receipt and use or other disposition of all herbs, aromatics, essences, extracts, or other flavoring materials used in the production of formula wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control numbers 1512–0059, 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19065, Apr. 12, 1993]

### § 24.304 Chaptalization (Brix adjustment) and amelioration record.

(a) *General.* A proprietor who chaptalizes juice or ameliorates juice or wine, or both, shall maintain a record of the operation and the transaction date. Records will be maintained for each kind of wine produced

(grape, apple, strawberry, etc.). No form of record is prescribed, but the record maintained will contain the information necessary to enable appropriate TTB officers to readily determine compliance with chaptalization and amelioration limitations. All quantities will be recorded in wine gallons, and, where sugar is used, the quantity will be determined either by measuring the increase in volume or, for pure dry sugar by considering that each 13.5 pounds results in a volumetric increase of one gallon. If grape juice is chaptalized and subsequently this juice or wine is ameliorated, the quantity of pure dry sugar added to juice will be included as ameliorating material. If fruit juice other than grape is chaptalized and this juice or wine is ameliorated, the quantity of pure dry sugar added for chaptalization is not considered ameliorating material; however, if liquid sugar or invert sugar syrup is used, the quantity of water in such sugar is included as ameliorating material. The record will include the following:

(1) The volume of juice (exclusive of pulp) deposited in fermenters;

(2) The maximum volume of ameliorating material to which the juice is entitled, as provided in § 24.178;

(3) The volume of ameliorating or chaptalizing material used; and

(4) The volume of material authorized but not yet used.

(b) *Supporting records.* The amelioration record will show the basis for entries and calculations, including determination of the natural fixed acid level and total solids content of juice, as applicable. The records are maintained on the basis of annual accounting periods, with each period commencing on July 1 of a year and ending on the following June 30, except the record for an accounting period may be continued after June 30, where the juice or wine included therein is to be held after that date for completion. When the amelioration of wine included in the record for one accounting period is complete, the record is closed and any unused ameliorating material may not be used. The proprietor may mix wines before amelioration of the wine is completed; however, the proprietor shall additionally maintain records necessary to establish the quantity of unused authorized material to which the resultant mixture would be entitled so that appropriate TTB officers may readily ascertain compliance with amelioration limitations. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended 1385, as amended (26 U.S.C. 5367, 5384))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991; T.D. ATF–409, 64 FR 13684, Mar. 22, 1999]

### § 24.305 Sweetening record.

A proprietor who sweetens natural wine with sugar or juice (unconcentrated or concentrated) under the provisions of this part shall maintain a record of sweetening by transaction date. The record will contain the following:

(a) The gallons and degrees Brix of the wine before sweetening;

(b) If concentrate is used, the degrees Brix of the concentrate;

(c) If sugar or juice, or both, are used, the gallon equivalent that would be required to sweeten the volume of wine to its maximum authorized total solids content;

(d) The quantity of sugar or juice used for sweetening; and

(e) The gallons and degrees Brix of the wine produced by sweetening. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.306 Distilling material or vinegar stock record.

A proprietor who produces or receives wine containing excess water which will be used expressly as distilling material or vinegar stock shall maintain a record by transaction date showing the amount and kind produced, received, from whom received, removed, and to whom sent. The proprietor shall keep a record of each type of material from which the distilling material or vinegar stock was fermented (e.g., grape, apple, strawberry). The volume of distilling material or vinegar stock produced, including wine lees refermented for use as distilling

material, will be recorded upon removal from fermenting tanks. However, the provisions of this section do not apply to standard wine or unwatered wine lees recorded on the proprietor's record of bulk still wine and removed for use as distilling material or vinegar stock. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.307 Nonbeverage wine record.

A proprietor who produces nonbeverage wine or wine products shall maintain a record by transaction date of such wine produced, received and withdrawn as follows:

(a) The kind, volume, and percent alcohol by volume of wine or wine products made from wine, which was rendered unfit for beverage use;

(b) The kind and quantity of materials received and used to render wine, or wine products made from wine, unfit for beverage use;

(c) The name, volume, percent alcohol by volume, and formula number, if produced under a formula, of each nonbeverage wine or wine product produced;

(d) The volume, percent alcohol by volume, and formula number, if applicable, of the nonbeverage wine or wine products received;

(e) The volume, percent alcohol by volume, and formula number, if applicable, of the nonbeverage wine or wine products removed;

(f) The name and address of the person to whom removed; however, on any individual sale of less than 80 liters the name and address of the purchaser need not be recorded; and

(g) In the case of vinegar production, the acetic acid and ethyl alcohol content of the vinegar.

When the proprietor sends nonbeverage wine or wine products free of tax to an adjacent or contiguous premises operated by the proprietor, records required by paragraphs (e) and (g) of this section will be maintained at each location.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.308 Bottled or packed wine record.

A proprietor who bottles, packs, or receives bottled or packed beverage wine in bond shall maintain a record, by tax class, as follows:

(a) The date, kind of wine, the number and size of bottle or other container filled (if not available in another record), and volume of wine bottled or packed, received in bond, returned to bond, and removed, e.g., taxpaid removals, in bond removals, dumped to bulk or destroyed, breakage, used for tasting. The volume recorded as bottled for bottle fermented sparkling wine is determined after the disgorging and refilling process.

(b) The label used on bottles or other containers will be shown in the record by using the ''Applicant's Serial No.'' which appears as item 2 on the label approval form, TTB F 5100.31 or a similar system which will allow for verification of labels used on bottles or containers.

(c) The fill tests and alcohol tests required by § 24.255 for each lot of wine bottled or packed, or for each bottling or packing line operated each day, showing the date, type of test, item tested and the test results.

(d) If a tax credit under 26 U.S.C. 5041(c) may be claimed, the record will be maintained in sufficient detail to insure that such a tax credit is properly claimed.

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–307, 55 FR 52738, Dec. 21, 1990; T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.309 Transfer in bond record.

A proprietor who transfers wine in bond shall prepare a transfer record. The transfer record will show:

(a) The name, address and registry number of the proprietor;

(b) The name, address and registry number of the consignee;

(c) The shipping date;

(d) The kind of wine (class and type);

(e) The alcohol content or the tax class;

(f) The number containers larger than four liters and cases;

(g) The serial numbers of cases (if any) or containers larger than four liters;

(h) Any bulk container identification marks;

(i) The volume shipped in gallons or liters; (if a tax credit under 26 U.S.C. 5041(c) may be claimed, the record will be maintained in sufficient detail to insure that such a tax credit is properly claimed);

(j) The serial number of any seal used;

(k) For unlabeled bottled or packed wine, the registry number of the bottler or packer;

(l) Information necessary for compliance with § 24.315, e.g., the varietal, vintage, appellation of origin designation of the wine or any other information that may be stated on the label; and

(m) Information as to any added substance or cellar treatment for which a label declaration is required for the finished product, or any other cellar treatment for which limitations are prescribed in this part, e.g., amount of decolorizing material used and kind and quantity of acid used. (Sec 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

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[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–307, 55 FR 52738, Dec. 21, 1990; T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.310 Taxpaid removals from bond record.

A proprietor removing wine from bond for consumption or sale on determination of tax shall maintain a record of wine removed at the time of removal either to taxpaid wine premises, taxpaid wine bottling house premises, or for direct shipment. The record will show the date of removal, the name and address of the person to whom shipped, and the volume, kind (class and type), and alcohol content of the wine. However, on any individual sale of less than 80 liters, the name and address of the purchaser need not be recorded. The proprietor who removes taxpaid bulk wine to another wine premises shall prepare the shipping record and follow the procedures prescribed by § 24.281. The volume of wine removed taxpaid will be summarized daily by tax class in wine gallons to the nearest tenth gallon. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.311 Taxpaid wine record.

A proprietor who has taxpaid United States or foreign wine on taxpaid wine premises or on taxpaid wine bottling house premises shall maintain records as follows:

(a) *Record of receipts.* (1) The name and address of the person or wine premises from whom received;

(2) The registry number (if any) of the wine premises from which received;

(3) The date of receipt;

(4) The kind of wine (class, type and, in the case of foreign wine, country of origin);

(5) Alcohol content or tax class of the wine; and,

(6) The volume of wine received in liters and gallons.

(b) *Record of removals.* (1) The name and address of the person to whom removed; however, on any individual sale of less than 80 liters, the name and address of the purchaser need not be recorded;

(2) The date of removal;

(3) The kind of wine (class, type and, in the case of foreign wine or a blend of United States and foreign wine, country of origin); and

(4) The volume of wine shipped in liters or gallons.

(c) *Record of cases or containers filled.* (1) The date the cases or containers were filled;

(2) The kind (class, type, and in the case of foreign wine or a blend of United States and foreign wine, country of origin) of wine bottled or packed;

(3) The number of the tank used to fill the bottles or other containers;

(4) The size of bottles or other containers and the number of cases or containers filled;

(5) The serial number or date of fill marked on the cases or containers filled; and

(6) The total volume of wine bottled or packed in liters or wine gallons. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367)).

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.312 Unmerchantable wine returned to bond record.

A proprietor shall maintain a record of any unmerchantable taxpaid wine returned to bond as follows:

(a) The kind, volume, and tax class of the wine;

(b) With regard to each tax class, the amount of tax previously paid or determined;

(c) The location of the wine premises at which the wine was bottled or packed and, if known, the identity of the bonded wine premises from which removed on determination of tax;

(d) The date the wine was returned to bond;

(e) The serial numbers or other identifying marks on the cases or containers in which the wine was received; and

(f) The final disposition of the wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.313 Inventory record.

A proprietor who files monthly or quarterly reports shall prepare a record of the physical inventory of all wine and spirits in storage at the close of business for each tax year, or where a different cycle has been established, the inventory will be taken at the end of that annual period. Such proprietors may use an annual inventory period different from the period beginning July 1 and ending June 30 by submitting a notice to the appropriate TTB officer. However, proprietors who file quarterly reports must select an annual inventory period that begins on the first day of a calendar quarter. Proprietors who file reports on a calendar year basis under the provisions of § 24.300(g) of this part shall take the physical inventory at the close of the calendar year. The inventory record will be retained on file with the proprietor's TTB F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period when the inventory was taken. If a proprietor who files monthly reports takes a complete inventory at other times during the year, losses disclosed will be reported on the TTB F 5120.17 and the inventory record will be maintained on file with the report for each month when an inventory was taken. The proprietor's inventory record will include:

(a) *Description of wine.* (1) State the generic name (e.g., port, claret) or designate as a white, rose or red table or dessert wine; or

(2) Wine intended to be marketed with a vintage date, varietal name, or geographical designation will be appropriately identified, e.g., 1977 Napa Valley Pinot Noir; and

(3) If the wine is other than grape wine, state the type, e.g., orange, honey.

(b) *Bulk containers.* Tanks containing wine will be listed by tank number. Bulk containers which are barrels or puncheons containing the same kind of wine may be summarized, e.g., 10 barrels—red table wine 500 gals.;

(c) *Cases, bottles and other similar containers.* The total volume of one kind of wine in cases, bottles and similar containers may be entered as one item and appropriately identified;

(d) *Inventory summary.* The volume of bulk and bottled or packed wine will be totaled separately in wine gallons or in liters, by tax class, and reported on the TTB F 5120.17. Spirits will also be totaled and reported on the TTB F 5120.17; and

(e) *Inventory record.* All inventory pages will be numbered consecutively and the last inventory page will be dated and signed after the statement,

''Under penalties of perjury, I declare that I have examined this inventory record and to the best of my knowledge and belief, it is a true, correct and complete record of all wine and spirits required to be inventoried.'' (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5369))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19065, Apr. 12, 1993; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999; T.D. TTB–41, 71 FR 5603, Feb. 2, 2006]

### § 24.314 Label information record.

A proprietor who removes bottled or packed wine with information stated on the label (e.g., varietal, vintage, appellation of origin, analytical data, date of harvest) shall have complete records so that the information appearing on the label may be verified by an TTB audit. A wine is not entitled to have information stated on the label unless the information can be readily verified by a complete and accurate record trail from the beginning source material to removal of the wine for consumption or sale. All records necessary to verify wine label information are subject to the record retention requirements of § 24.300(d). (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.315 Materials received and used record.

(a) *General.* A proprietor who produces wine shall maintain a record showing the receipt and use or other disposition of basic winemaking materials received on wine premises. The record will show the date of receipt, the quantity received, the name and address from whom received, and the date of use or other disposition of the materials. For any material stored off wine premises, invoices or other commercial papers covering the purchase will also be kept available for inspection. Where grapes (or other fruit) received on wine premises are used in producing juice to be stored for future use or for removal, the record will show the quantity used and juice produced.

(b) *Concentrated fruit juice.* When concentrated fruit juice or must is produced or received, the record will show the degrees Brix of the juice before and after concentration, the volume of juice before and after reconstitution, the volume of reconstitution water used for each dilution of the concentrate, and, if volatile fruit flavor was added, the kind and volume. Where fruit or juice is used to produce concentrated juice, the record will also show the quantity of fruit or volume of juice used. If the concentrated fruit juice is removed for use by another proprietor, a copy of the certificate required by § 24.180 will be retained. The record of concentrated fruit juice will contain the information necessary to determine compliance with the limitations prescribed in § 24.180. Incomplete or inaccurate records of concentrated fruit juice may result in the wine produced from the concentrated fruit juice to be designated substandard.

(c) *Volatile fruit-flavor concentrate.* If volatile fruit-flavor concentrate is received, the record will show the volume received, the fold, the percent of alcohol by volume, any loss in transit, and the use or other disposition of the volatile fruit-flavor concentrate. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.316 Spirits record.

A proprietor who receives, stores, or uses spirits shall maintain a record of receipt and use. The record will show the date of receipt, from whom received, and the kind and proof gallons. The spirits record will also show by date and proof gallons the spirits used or removed from bonded wine premises and to whom. The proof gallons of spirits received, used, removed from bonded wine premises, and on hand will be summarized and the account balanced at the end of each reporting period and reported on the TTB F 5120.17. (Sec. 201,

Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373))

(Approved by the Office of Management and Budget under control numbers 1512–0216 and 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991; T.D. ATF–338, 58 FR 19065, Apr. 12, 1993]

### § 24.317 Sugar record.

A proprietor who receives, stores, or uses sugar shall maintain a record of receipt and use. The record will show the date of receipt, from whom received, and the kind and quantity. Invoices covering purchases will be retained. When sugar is used for chaptalization (Brix adjustment), amelioration or sweetening, the record will show the date, kind, and quantity used. The sugar record will also show sugar used in the production of allied products and any sugar removed from the wine premises. At the close of each reporting period, the account will be balanced and the quantity of each kind of sugar remaining on hand will be shown. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19065, Apr. 12, 1993]

### § 24.318 Acid record.

A proprietor who adds acid to correct a natural deficiency in juice or wine or to stabilize wine shall maintain a record showing date of use, the kind and quantity of acid used, the kinds and volume of juice or wine in which used, and, when used to correct natural deficiency, the fixed acid level of juice or of wine before and after the addition of acid. The record will account for all acids received and be supported by purchase invoices. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.319 Carbon dioxide record.

A proprietor who uses carbon dioxide in still wine shall maintain a record of the laboratory tests conducted to establish compliance with the limitations prescribed in § 24.245. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.320 Chemical record.

A proprietor who uses chemicals, preservatives, or other such materials shall maintain a record of the purchase, receipt and disposition of these materials. The record will show the kinds and quantities received, the date of receipt, and the names and addresses from whom purchased. A record of use in juice or wine of any of these materials, except for filtering aids, inert fining agents, sulfur dioxide, carbon dioxide (except as provided in § 24.319), nitrogen and oxygen, will be maintained, showing the kind, quantity, and date of use, and kind and volume of juice or wine in which used. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31083, July 9, 1991]

### § 24.321 Decolorizing material record.

A proprietor who treats juice or wine to remove excess color with activated carbon or any other decolorizing material shall maintain a record to show:

(a) The date the decolorizing material is added to the juice or wine;

(b) The type (e.g. grape variety or kind of wine) and volume of juice or wine treated with decolorizing material; and

(c) The kind and quantity of decolorizing material used to treat the juice or wine. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.322 Allied products record.

A proprietor who uses fruit, fruit juice or concentrated fruit juice in the production of allied products shall maintain a record of these materials in accordance with § 24.315. The record

will also show the production and disposition of other allied products. If sugar, acids, or chemicals are used in allied products, the receipt and use will also be recorded. (Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1512–0298)

### § 24.323 Excise Tax Return form.

A proprietor who removes wine subject to tax shall prepare an TTB F 5000.24, Excise Tax Return, unless exempted under the provisions of § 24.273. Any increase or decrease in tax due to previous return errors or for authorized credits will be shown on the return. The TTB F 5000.24 will be prepared and filed by the proprietor in accordance with the instructions printed on the form. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended, 917, as amended (26 U.S.C. 5061, 7805))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

# PART 25—BEER

## Subpart A—Scope of Regulations

Sec.
25.1 Production and removal of beer.
25.2 Territorial extent.
25.3 Forms prescribed.
25.4 Related regulations.
25.5 OMB control numbers assigned under the Paperwork Reduction Act.
25.6 Delegations of the Administrator.

## Subpart B—Definitions

25.11 Meaning of terms.

STANDARDS FOR BEER

25.15 Materials for the production of beer.

## Subpart C—Location and Use of Brewery

25.21 Restrictions on location.
25.22 Continuity of brewery.
25.23 Restrictions on use.
25.24 Storage of beer.
25.25 Operation of a tavern on brewery premises.

## Subpart D—Construction and Equipment

CONSTRUCTION

25.31 Brewery buildings.

EQUIPMENT

25.35 Tanks.
25.36 Empty container storage.

## Subpart E—Measurement of Beer

25.41 Measuring system required.
25.42 Testing of measuring devices.

## Subpart F—Miscellaneous Provisions

25.51 Right of Entry and Examination.
25.52 Variations from requirements.

SAMPLES

25.53 Submissions of samples of fermented products.

FORMULAS

25.55 Formulas for fermented products.
25.56 Filing of formulas.
25.57 Formula information.
25.55 New and superseding formulas.

## Subpart G—Qualification of a Brewery

ORIGINAL QUALIFICATION

25.61 General requirements for notice.
25.62 Data for notice.
25.63 Notice of registration.
25.64 Maintenance of notice file.
25.65 Power of attorney.
25.66 Organizational documents.
25.67 [Reserved]
25.68 Description of brewery.

CHANGES AFTER ORIGINAL QUALIFICATION

25.71 Amended or superseding notices.
25.72 Change in proprietorship.
25.73 Change in partnership.
25.74 Change in stockholders.
25.75 Change in officers and directors.
25.76 [Reserved]
25.77 Change in location.
25.78 Change in premises.

ALTERNATION OF OPERATIONS

25.81 Alternation of brewery and bonded or taxpaid wine premises.

DISCONTINUANCE OF BUSINESS

25.85 Notice of permanent discontinuance.

## Subpart H—Bonds and Consents of Surety

25.91 Requirement for bond.
25.92 Consent of surety.
25.93 Penal sum of bond.
25.94 Strengthening bonds.
25.95 New bond.
25.96 Superseding bond.
25.97 Continuation certificate.
25.98 Surety or security.
25.99 Filing powers of attorney.

DISAPPROVAL OR TERMINATION OF BONDS OR CONSENTS OF SURETY

25.101 Disapproval of bonds or consents of surety.
25.102 Termination of surety's liability.
25.103 Notice by surety for relief from liability under bond.
25.104 Termination of bonds.
25.105 Release of collateral security.

## Subpart I—Special Taxes

LIABILITY FOR SPECIAL TAX

25.111 Brewer's special tax.
25.111a Special tax rates.
25.111b Reduced rate of tax for small brewers.
25.112 Wholesaler's special tax.
25.113 Each place of business taxable.
25.114 Exemptions from dealer's special taxes.

EXECUTION OF SPECIAL TAX RETURNS

25.117 Special tax returns.
25.118 Preparation of TTB Form 5630.5.
25.119 Multiple locations and/or classes of tax.
25.120 Signing of TTB Forms 5630.5.

EMPLOYER IDENTIFICATION NUMBERS

25.121 Employer identification number.
25.122 Application for employer identification number.
25.123 Preparation and filing of IRS Form SS–4.

SPECIAL TAX STAMPS

25.125 Issuance of special tax stamps.
25.126 Distribution of stamps for multiple locations.
25.127 Examination of special tax stamps.

CHANGES IN SPECIAL TAX STAMPS

25.131 Change in name.
25.132 Change in proprietorship.
25.133 Persons having right of succession.
25.134 Change in location.

## Subpart J—Marks, Brands, and Labels

25.141 Barrels and kegs.
25.142 Bottles.
25.143 Cases.
25.144 Rebranding barrels and kegs.
25.145 Tanks, vehicles, and vessels.

## Subpart K—Tax on Beer

LIABILITY FOR TAX

25.151 Rate of tax.
25.152 Reduced rate of tax for certain brewers.
25.153 Persons liable for tax.

DETERMINATION OF TAX

25.155 Types of containers.
25.156 Determination of tax on keg beer.
25.157 Determination of tax on bottled beer.
25.158 Tax computation for bottled beer.
25.159 Time of tax determination and payment; offsets.
25.160 Tax adjustment for brewers who produce more than 2,000,000 barrels of beer.

PREPARATION AND REMITTANCE OF TAX RETURNS

25.163 Method of tax payment.
25.164 Quarterly and semimonthly returns.
25.164a Special September rule for taxes due by semimonthly return.
25.165 Payment of tax by electronic fund transfer.
25.166 Payment of reduced rate of tax.
25.167 Notice of brewer to pay reduced rate of tax.
25.168 Employer identification number.

PREPAYMENT OF TAX

25.173 Brewer in default.
25.174 Bond not sufficient.
25.175 Prepayment of tax.

FAILURE TO PAY TAX

25.177 Evasion of or failure to pay tax; failure to file a tax return.

## Subpart L—Removals Without Payment of Tax

TRANSFER TO ANOTHER BREWERY OF SAME OWNERSHIP

25.181 Eligibility.
25.182 Kinds of containers.
25.183 Determination of quantity transferred.
25.184 Losses in transit.
25.185 Mingling.
25.186 Record of beer transferred.

REMOVAL OF BEER UNFIT FOR BEVERAGE USE

25.191 General.
25.192 Removal of sour or damaged beer.

REMOVALS FOR ANALYSIS, RESEARCH, DEVELOPMENT OR TESTING

25.195 Removals for analysis.
25.196 Removals for research, development or testing.

REMOVAL OF BEER TO A CONTIGUOUS DISTILLED SPIRITS PLANT

25.201 Removal by pipeline.

EXPORTATION

25.203 Exportation without payment of tax.

BEER FOR PERSONAL OR FAMILY USE

25.205 Production.
25.206 Removal of beer.
25.207 Removal from brewery for personal or family use.

Subpart M—Beer Returned to Brewery

25.211 Beer returned to brewery.
25.212 Beer returned to brewery from which removed.
25.213 Beer returned to brewery other than that from which removed.

Subpart N—Voluntary Destruction

25.221 Voluntary destruction of beer.
25.222 Notice of brewer.
25.223 Destruction of beer off brewery premises.
25.224 Refund or adjustment of tax.
25.225 Destruction of taxpaid beer which was never removed from brewery premises.

Subpart O—Beer Purchased From Another Brewer

25.231 Finished beer.
25.232 Basic permit.

Subpart P—Cereal Beverage

25.241 Production.
25.242 Markings.

Subpart Q—Removal of Brewer's Yeast and Other Articles

25.251 Authorized removals.
25.252 Records.

Subpart R—Beer Concentrate

25.261 General.
25.262 Restrictions and conditions on processes of concentration and reconstitution.
25.263 Production of concentrate and reconstitution of beer.
25.264 Transfer between breweries.

Subpart S—Pilot Brewing Plants

25.271 General.
25.272 Application.
25.273 Action on application.
25.274 Bond.
25.275 Special tax.
25.276 Operations and records.
25.277 Discontinuance of operations.

Subpart T—Refund or Adjustment of Tax or Relief From Liability

25.281 General.
25.282 Beer lost by fire, theft, casualty, or act of God.
25.283 Claims for refund of tax.
25.284 Adjustment of tax.
25.285 Refund of beer tax excessively paid.
25.286 Claims for remission of tax on beer lost in transit between breweries.

Subpart U—Records and Reports

25.291 Records.
25.292 Daily records of operations.
25.293 Record of ballings and alcohol content.
25.294 Inventories.
25.295 Record of unsalable beer.
25.296 Record of beer concentrate.
25.297 Brewer's Report of Operations, Form 5130.9.
25.298 Excise tax return, Form 5000.24.
25.299 Execution under penalties of perjury.
25.300 Retention and preservation of records.
25.301 Photographic copies of records.

AUTHORITY: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5148, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

SOURCE: T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 25 appear by T.D. ATF–437, 66 FR 5478, 5479, Jan. 19, 2001.

## Subpart A—Scope of Regulations

### §25.1 Production and removal of beer.

The regulations in this part relate to beer and cereal beverages and cover the location, construction, equipment, operations and qualifications of breweries and pilot brewing plants.

### §25.2 Territorial extent.

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

### §25.3 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including bonds, applications, notices, reports, returns, 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. The

form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 10540, Mar. 27, 1986, as amended by T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF–437, 66 FR 5478, Jan. 19, 2001; T.D. TTB–44, 71 FR 16941, Apr. 4, 2006]

### § 25.4 Related regulations.

Regulations relating to this part are listed below:

27 CFR Part 7—Labeling and Advertising of Malt Beverages.
27 CFR Part 28—Exportation of Alcohol.
27 CFR Part 29—Stills and Miscellaneous Regulations.
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.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–462, 66 FR 42737, Aug. 15, 2001; T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 25.5 OMB control numbers assigned under the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 27 CFR Part 25 under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

(b) *Display, OMB control number 1512–0045.* OMB control number 1512–0045 is assigned to the following sections in 27 CFR Part 25: §§ 25.23, 25.25, 25.52, 25.61, 25.62, 25.64, 25.66, 25.67, 25.68, 25.71, 25.72, 25.73, 25.74, 25.75, 25.76, 25.77, 25.78, 25.81, 25.85, 25.103, 25.114, 25.141, 25.142, 25.144, 25.158, 25.167, 25.184, 25.213, 25.222, 25.225, 25.272, 25.273, 25.277, 25.282, 25.299.

(c) *Display, OMB control number 1512–0052.* OMB control number 1512–0052 is assigned to the following sections in 27 CFR Part 25: §§ 25.296(b), 25.297.

(d) *Display, OMB control number 1512–0079.* OMB control number 1512–0079 is assigned to the following section in 27 CFR Part 25: § 25.65.

(e) *Display, OMB control number 1512–0141.* OMB control number 1512–0141 is assigned to the following sections in 27 CFR Part 25: §§ 25.281, 25.282, 25.286.

(f) *Display, OMB control number 1512–0333.* OMB control number 1512–0333 is assigned to the following sections in 27 CFR Part 25: §§ 25.42, 25.142, 25.186, 25.192, 25.195, 25.196, 25.211, 25.252, 25.264, 25.276, 25.284, 25.291, 25.292, 25.293, 25.294, 25.295, 25.296(a), 25.300, 25.301.

(g) *Display, OMB control number 1512–0457.* OMB control number 1512–0457 is assigned to the following section in 27 CFR Part 25: § 25.165.

(h) *Display, OMB control number 1512–0467.* OMB control number 1512–0467 is assigned to the following sections in 27 CFR Part 25: §§ 25.122, 25.160, 25.163, 25.164, 25.165, 25.166, 25.167, 25.168, 25.175, 25.224, 25.284, 25.285, 25.298.

(i) *Display, OMB control number 1512–0472.* OMB control number 1512–0472 is assigned to the following sections in 27 CFR Part 25: §§ 25.111, 25.112, 25.113, 25.114, 25.117, 25.118, 25.119, 25.121, 25.126, 25.127, 25.131, 25.132, 25.133, 25.134.

(j) *Display, OMB control number 1512–0478.* OMB control number 1512–0478 is assigned to the following sections in 27 CFR Part 25: §§ 25.24, 25.35, 25.141, 25.142, 25.143, 25.145, 25.192, 25.196, 25.231, 25.242, 25.251, 25.263.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 10540, Mar. 27, 1986; T.D. ATF–268, 53 FR 8628, Mar 16, 1988]

### § 25.6 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.25, Delegation of the Administrator's Authorities in 27 CFR Part 25, Beer. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16941, Apr. 4, 2006]

## Subpart B—Definitions

### § 25.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent

thereof, terms have the meanings given in this section.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.25, Delegation of the Administrator's Authorities in 27 CFR Part 25, Beer.

*Balling.* The percent by weight of dissolved solids at 60 °F. present in wort and beer, usually determined by a balling saccharometer.

*Bank.* Any commercial bank.

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

*Barrel.* When used as a unit of measure, the quantity equal to 31 U.S. gallons. When used as a container, a consumer package or keg containing a quantity of beer listed in §25.156, or other size authorized by the appropriate TTB officer.

*Beer.* Beer, ale, porter, stout, and other similar fermented beverages (including saké and similar products) of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt. Standards for the production of beer appear in §25.15.

*Bottle.* A bottle, can or similar container.

*Bottling.* The filling of bottles, cans, and similar containers.

*Brewer.* Any person who brews beer (except a person who produces only beer exempt from tax under 26 U.S.C. 5053(e)) and any person who produces beer for sale.

*Brewery.* The land and buildings described in the Brewer's Notice, Form 5130.10, where beer is to be produced and packaged.

*Brewing.* The production of beer for sale.

*Business day.* The 24-hour cycle of operations in effect at the brewery and described on the Brewer's Notice, Form 5130.10.

*Calendar quarter.* A 3-month period during the year as follows: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

*Cereal beverage.* A beverage, produced either wholly or in part from malt (or a substitute for malt), and either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

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

*Concentrate.* Concentrate produced from beer by the removal of water under the provisions of subpart R of this part. The processes of concentration of beer and reconstitution of beer are considered authorized processes in the production of beer.

*Director of the service center.* A Director of an Internal Revenue Service Center.

*District Director.* A district director of internal revenue.

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

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, when 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 men and, to the best of

my knowledge and belief, is true, correct and complete.''

*Fiscal year.* The period which begins October 1 and ends on the following September 30.

*Gallon.* The liquid measure containing 231 cubic inches.

*Losses.* Known quantities of beer lost due to breakage, casualty, or other unusual cause.

*Package.* A bottle, can, keg, barrel, or other original consumer container.

*Packaging.* The filling of any package.

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

*Racking.* The filling of kegs or barrels.

*Removed for consumption or sale.* Except when used with respect to beer removed without payment of tax as authorized by law, (a) the sale and transfer of possession of beer for consumption at the brewery, or (b) any removal of beer from the brewery.

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

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

*Shortage.* An unaccounted for discrepancy (missing quantity) of beer disclosed by physical inventory.

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

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

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

*Wort.* The product of brewing before fermentation which results in beer.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993; T.D. ATF–437, 66 FR 5478, Jan. 19, 2001; TTB T.D.–21, 70 FR 235, Jan. 3, 2005; T.D. TTB–44, 71 FR 16941, Apr. 4, 2006]

STANDARDS FOR BEER

### § 25.15 Materials for the production of beer.

(a) Beer must be brewed from malt or from substitutes for malt. Only rice, grain of any kind, bran, glucose, sugar, and molasses are substitutes for malt. In addition, you may also use the following materials as adjuncts in fermenting beer: honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other food materials.

(b) You may use flavors and other nonbeverage ingredients containing alcohol in producing beer. Flavors and other nonbeverage ingredients containing alcohol may contribute no more than 49% of the overall alcohol content of the finished beer. For example, a finished beer that contains 5.0% alcohol by volume must derive a minimum of 2.55% alcohol by volume from the fermentation of ingredients at the brewery and may derive not more than 2.45% alcohol by volume from the addition of flavors and other nonbeverage ingredients containing alcohol. In the case of beer with an alcohol content of more than 6% by volume, no more than 1.5% of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

[T.D. TTB–21, 70 FR 235, Jan. 3, 2005]

## Subpart C—Location and Use of Brewery

### § 25.21 Restrictions on location.

A brewery may not be established or operated in any dwelling house or on board any vessel or boat, or in any building or on any premises where the revenue will be jeopardized or the effective administration of this part will be hindered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

### § 25.22 Continuity of brewery.

Brewery premises will be unbroken except that they may be separated by public passageways, streets, highways, waterways, carrier rights-of-way, or partitions. If the brewery premises are separated, the parts will abut on the dividing medium and be adjacent to each other. if the brewer has facilities for loading, or for case packing or storage which are located within reasonable proximity to the brewery, the appropriate TTB officer may approve these facilities as part of the brewery if the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

### § 25.23 Restrictions on use.

(a) *Use of brewery in production of beer or cereal beverage.* A brewery may be used only for the following purposes involving the production of beer or cereal beverages:

(1) For producing, packaging and storing beer, cereal beverages, vitamins, ice, malt, malt syrup, and other by-products of the brewing process, or soft drinks and other nonalcoholic beverages;

(2) For processing spent grain, carbon dioxide, and yeast; and

(3) For storing packages and supplies necessary or connected to brewery operations.

(b) *Other authorized uses.* A brewer may use a brewery for other purposes, not involving the production of beer or cereal beverage, upon approval from the appropriate TTB officer, if the purposes:

(1) Require the use of by-products or waste from the production of beer;

(2) Utilize buildings, rooms, areas, or equipment not fully employed in the production or packaging of beer;

(3) Are reasonably necessary to realize the maximum benefit from the premises and equipment and reduce the overhead of the brewery;

(4) Are in the public interest because of emergency conditions;

(5) Involve experiments or research projects related to equipment, materials, processes, products, by-products, or waste of the brewery; or

(6) Involve operation of a tavern on brewery premises in accordance with § 25.25.

(c) *Application.* Except as provided in § 25.25 for operation of a tavern on brewery premises, a brewer desiring to use a brewery for other purposes shall submit to the appropriate TTB officer , an application listing the purposes. The appropriate TTB officer will approve the application if the use for other purposes will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–268, 53 FR 8628, Mar 16, 1988]

### § 25.24 Storage of beer.

(a) *Taxpaid beer.* Beer of a brewer's own production on which the tax has been paid or determined may not be stored in the brewery, except as provided in § 25.25 or § 25.213. Beer produced by other brewers may be stored at the brewery under the following conditions:

(1) Taxpaid beer will be segregated in such a manner as to preclude mixing with nontaxpaid beer;

(2) If required by Part 1 of this chapter, the brewer shall have a wholesalers or importers basic permit under the Federal Alcohol Administration Act, and keep records of the taxpaid beer as a wholesaler or importer under part 31 of this chapter.

(3) Taxpaid beer may be stored in packages;

(4) Taxpaid beer may not be relabeled;

(5) Taxpaid beer may not be shown on required brewery records;

(6) The brewer shall purchase a special tax stamp as a wholesaler, if required by part 31 of this chapter; and

(7) The appropriate TTB officer may require physical segregation of taxpaid beer, or marking to show the status of taxpaid beer, if necessary to protect the revenue.

(b) *Untaxpaid beer.* Packaged beer on which tax has not been paid or determined may be stored in any suitable location in the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–268, 53 FR 8628, Mar 16, 1988; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 25.25 Operation of a tavern on brewery premises.

(a) *General.* A brewer desiring to operate a tavern as an alternate use of brewery premises, shall submit a Brewer's Notice, Form 5130.10 containing the information required by paragraph (b) of this section. If the appropriate TTB officer finds that the operation of the tavern on brewery premises will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law, the approval of the Brewer's Notice, Form 5130.10 shall

constitute approval of the alternate use of brewery premises, in lieu of the application required by § 25.23. As used in this section, ''tavern'' means a portion of brewery premises where beer is sold to consumers. Food, and/or taxpaid wine, and/or taxpaid distilled spirits may also be sold at a tavern operated on brewery premises. Taxpaid beer produced by other brewers may be received, stored and sold on brewery premises in accordance with § 25.24.

(b) *Brewer's Notice.* In preparing the Brewer's Notice, Form 5130.10, the applicant shall show the following information, in addition to the information required by the form:

(1) The applicant shall identify the portion of the brewery which will be operated as a tavern by providing a diagram or narrative description of the boundaries of the tavern. The diagram or description shall identify areas of the brewery which are accessible to the public and areas which are not. The applicant shall describe security measures to be used to segregate public areas from non-public areas.

(2) The applicant shall describe in detail the method to be used for measuring beer for the purposes of tax determination.

(3) The applicant shall identify the tanks which will periodically contain tax-determined beer, and any other areas where tax-determined beer will be stored.

(c) *Procedures.* The following procedures shall apply to operation of a tavern on brewery premises:

(1) The brewery shall have a suitable method for measurement of the beer, such as a meter or gauge glass. Tax determination shall consist of the measurement of the beer and the preparation of the brewer's record of tax determination, required by § 25.292(a)(8). The taxes shall be determined prior to the time that the beer is dispensed into a container for consumption.

(2) If the brewer uses one or more tanks for tax determination, the following procedures shall apply:

(i) Each such tank shall be durably marked with the words ''tax-determination tank'';

(ii) The taxes shall be determined each time beer is added to a tax-determination tank; and

(iii) The brewer may never simultaneously pump into and out of a tax-determination tank.

(3) A brewer qualified under this section may store, on brewery premises, tax-determined beer which is intended for sale at a tavern operated on brewery premises, in accordance with this section. The prohibition of § 25.24 shall not apply to such tax-determined beer.

(4) Beer consumed by employees and visitors in the brewery's tavern shall be beer on which the tax has been paid or determined.

[T.D. ATF–268, 53 FR 8628, Mar 16, 1988]

## Subpart D—Construction and Equipment

CONSTRUCTION

### § 25.31 Brewery buildings.

Brewery buildings shall be arranged and constructed to afford adequate protection to the revenue and to facilitate inspection by appropriate TTB officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

EQUIPMENT

### § 25.35 Tanks.

Each stationary tank, vat, cask or other container used, or intended for use, as a receptacle for wort, beer or concentrate produced from beer shall:

(a) Be durably marked with a serial number and capacity; and

(b) Be equipped with a suitable measuring device. The brewer may provide meters or other suitable portable devices for measuring contents of tanks or containers in lieu of providing each tank or container with a measuring device.

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

### § 25.36 Empty container storage.

Empty barrels, kegs, bottles, other containers, or other supplies stored in the brewery will be segregated from filled containers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

## Subpart E—Measurement of Beer

### § 25.41 Measuring system required.

The brewer shall accurately and reliably measure the quantity of beer transferred from the brewery cellars for bottling and for racking. The brewer may use a measuring device, such as a meter or gauge glass, or any other suitable method.

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

### § 25.42 Testing of measuring devices.

(a) *General requirements.* If a measuring device such as a meter or gauge glass is used to measure beer, the brewer shall periodically test the measuring device and adjust or repair it, if necessary. The brewer shall keep records of tests available for inspection by appropriate TTB officers. Records of tests will include:

(1) Date of test;

(2) Identity of meter or measuring device;

(3) Result of test; and

(4) Corrective action taken, if necessary.

(b) *Requirements for beer meters.* The allowable variation for beer meters as established by testing may not exceed ±0.5 percent. If a meter test discloses an error in excess of the allowable variation, the brewer shall immediately adjust or repair the meter. Adjustments will reduce the error to as near zero as practicable.

(c) *Authority to require tests.* If the appropriate TTB officer has reason to believe that the accuracy or reliability of a measuring device is not being properly maintained, he or she may require the brewer to test the measuring device and, if necessary, adjust or repair the measuring device.

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

## Subpart F—Miscellaneous Provisions

### § 25.51 Right of Entry and Examination.

An appropriate TTB officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate TTB officers may make inspections as the appropriate TTB officer deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an appropriate TTB officer acting under 26 U.S.C. 7606, or who refuses to permit an appropriate TTB officer to examine beer must, for each refusal, forfeit $500.

[T.D. ATF–437, 66 FR 5478, Jan. 19, 2001]

### § 25.52 Variations from requirements.

(a) *Exceptions to construction, equipment and methods of operations*—(1) *General.* The appropriate TTB officer may approve details of construction, equipment or methods of operations, in lieu of those specified in this part. The brewer shall show that it is impracticable to conform to the prescribed specification, and that the proposed variance:

(i) Will afford the protection to the revenue intended by the specifications in this part;

(ii) Will not hinder the effective administration of this part, and

(iii) Is not contrary to any provision of law.

(2) *Application.* A brewer who proposes to employ methods of operations or construction or equipment other than as provided in this part shall submit an application to the appropriate TTB officer. The application will describe the proposed variation and state the need for it. The brewer shall submit drawings or photographs if necessary to describe the proposed variation.

(3) *Approval by appropriate TTB officer.* The appropriate TTB officer may approve the use of an alternate method or procedure if:

(i) The brewer 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.

(4) *Exceptions.* The appropriate TTB officer may not authorize an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(5) *Conditions of approval.* A brewer may not employ an alternate method or procedure until the appropriate TTB officer has approved its use. The brewer 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 brewer may apply to the appropriate TTB officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The brewer shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval.* The appropriate TTB officer 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 brewer may not employ an emergency variation from the requirements until the appropriate TTB officer has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(c) *Automatic termination of approval.* If the brewer 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 brewer is required to comply with prescribed requirements of regulations.

(d) *Withdrawal of approval.* The appropriate TTB officer may withdraw approval of an alternate method or procedure, approved under paragraph (a) or (b) of this section, if the appropriate TTB officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended, 1396, as amended (26 U.S.C. 5552, 5556))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

## SAMPLES

SOURCE: Sections 25.53 and 25.55 through 25.58 appear at 70 FR 235, Jan. 3, 2005, unless otherwise noted.

### § 25.53 Submissions of samples of fermented products.

The appropriate TTB officer may, at any time, require you to submit samples of:

(a) Cereal beverage, saké, or any fermented product produced at the brewery,

(b) Materials used in the production of cereal beverage, saké, or any fermented product; and

(c) Cereal beverage, saké, or any fermented product, in conjunction with the filing of a formula.

(26 U.S.C. 5415, 5555, 7805(a))

## FORMULAS

### § 25.55 Formulas for fermented products.

(a) *For what fermented products must a formula be filed?* You must file a formula for approval by TTB if you intend to produce:

(1) Any fermented product that will be treated by any processing, filtration, or other method of manufacture that is not generally recognized as a traditional process in the production of a fermented beverage designated as ''beer,'' ''ale,'' ''porter,'' ''stout,'' ''lager,'' or ''malt liquor.'' For purposes of this paragraph:

(i) Removal of any volume of water from beer, filtration of beer to substantially change the color, flavor, or character, separation of beer into different components, reverse osmosis, concentration of beer, and ion exchange treatments are examples of non-traditional processes for which you must file a formula.

(ii) Pasteurization, filtration prior to bottling, filtration in lieu of pasteurization, centrifuging for clarity, lagering, carbonation, and blending are examples of traditional processes for which you do not need to file a formula.

(iii) If you have questions about whether or not use of a particular process not listed in this section requires the filing of a formula, you may request a determination from TTB in accordance with paragraph (f) of this section.

(2) Any fermented product to which flavors or other nonbeverage ingredients (other than hop extract) containing alcohol will be added.

(3) Subject to paragraph (f) of this section, any fermented product to which coloring or natural or artificial flavors will be added.

(4) Subject to paragraph (f) of this section, any fermented product to which fruit, fruit juice, fruit concentrate, herbs, spices, honey, maple syrup, or other food materials will be added.

(5) Saké, including flavored saké and sparkling saké.

(b) *Are separate formulas required for different products?* (1) You must file a separate formula for approval for each different fermented product for which a formula is required.

(2) You may file a formula for a beer base to be used in the production of one or more other fermented products. The beer base must conform to the standards set forth in § 25.15.

(c) *When must I file a formula?* (1) Except as provided in paragraph (c)(2) of this section, you may not produce a fermented product for which a formula is required until you have filed and received approval of a formula for that product.

(2) You may, for research and development purposes (including consumer taste testing), produce a fermented product without an approved formula, but you may not sell or market this product until you receive approval of the formula for it.

(d) *How long is my formula approval valid?* Your formula approved under this section remains in effect until: you supersede it with a new formula; you voluntarily surrender the formula; TTB cancels or revokes the formula; or the formula is revoked by operation of law or regulation.

(e) *Are my previously approved statements of process valid?* Your statements of process approved before January 3, 2006 are considered approved formulas under this section, provided that any finished product that could be made under the statement of process would be in compliance with the provisions of this part. You do not need to submit a formula for approval if a statement of process that remains valid covers the product.

(f) *Determinations by TTB regarding specific processes and ingredients.* (1) The appropriate TTB officer may determine whether or not use of a process not listed in paragraph (a)(1) of this section requires you to file a formula for approval. The appropriate TTB officer may also exempt the use of a particular coloring, flavoring, or food material from the formula filing requirement of paragraph (a)(3) or paragraph (a)(4) of this section upon a finding that the coloring, flavoring, or food material in question is generally recognized as a traditional ingredient in the production of a fermented beverage designated as ‘‘beer,’’ ‘‘ale,’’ ‘‘porter,’’ ‘‘stout,’’ ‘‘lager,’’ or ‘‘malt liquor.’’

(2) You may request a determination from TTB on whether or not the use of a process not listed in paragraph (a)(1) of this section will require the filing of a formula or whether the use of a particular coloring, flavoring or food material may be exempted from the formula filing requirement of paragraph (a)(3) or paragraph (a)(4) of this section. You should mail your request to the Assistant Chief, Advertising, Labeling and Formulation Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220.

(i) When requesting a determination as to whether a process is subject to the formula filing and approval requirement, the request must include:

(A) A detailed description of the proposed process;

(B) Evidence establishing that the proposed process is generally recognized as a traditional process in the production of a fermented beverage

designated as ''beer,'' ''ale,'' ''porter,'' ''stout,'' ''lager,'' or ''malt liquor''; and

(C) An explanation of the effect of the proposed process on the production of a fermented product.

(ii) When requesting an exemption from the formula filing requirement in paragraph (a)(3) or paragraph (a)(4) of this section regarding coloring, flavoring, or food material ingredients, the request must include the following information:

(A) A description of the proposed ingredient;

(B) Evidence establishing that the proposed ingredient is generally recognized as a traditional ingredient in the production of a fermented beverage designated as ''beer,'' ''ale,'' ''porter,'' ''stout,'' ''lager,'' or ''malt liquor''; and

(C) An explanation of the effect of the proposed ingredient in the production of a fermented product.

### § 25.56 Filing of formulas.

(a) *What are the general requirements for filing a formula?* (1) You must file your formula in writing. Your formula must identify each brewery where the formula applies by including each brewery name, address, and registry number.

(2) You must serially number each formula, commencing with ''1'' and continuing in numerical sequence.

(3) You must date and sign each formula.

(4) You must file two copies of each formula with TTB.

(b) *Where do I file a formula?* File your formula with the Assistant Chief, Advertising, Labeling and Formulation Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220.

(26 U.S.C. 5401, 7805)

### § 25.57 Formula information.

(a) *Ingredient information.* (1) For each formula you must list each separate ingredient and the specific quantity used, or a range of quantities used. You may include optional ingredients in a formula if they do not impact the labeling or identity of the finished product.

(2) For fermented products containing flavorings you must list for each formula: The name of the flavor; the product number or TTB drawback number and approval date of the flavor; the name and location (city and State) of the flavor manufacturer; the alcohol content of the flavor; and the point of production at which the flavor was added (that is, before, during, or after fermentation).

(3) For formulas that include the use of flavors and other nonbeverage ingredients containing alcohol, you must explicitly indicate:

(i) The volume and alcohol content of the beer base;

(ii) The maximum volumes of the flavors and other nonbeverage ingredients containing alcohol to be used;

(iii) The alcoholic strength of the flavors and other nonbeverage ingredients containing alcohol;

(iv) The overall alcohol contribution to the finished product provided by the addition of any flavors or other nonbeverage ingredients containing alcohol. You are not required to list the alcohol contribution of individual flavors and other nonbeverage ingredients containing alcohol. You may state the total alcohol contribution from these ingredients to the finished product; and

(v) The final volume and alcohol content of the finished product.

(b) *Process information.* For each formula you must describe in detail each process used to produce a fermented beverage.

(c) *Alcohol content.* For each formula you must state the alcohol content of the fermented product after fermentation and the alcohol content of the finished product.

(d) *Beer base formulas.* You must refer in your formula to any approved formula number that covers the production of any beer base used in producing the formula product. If the beer base was produced by another brewery of the same ownership, you must also provide the name and address or name and registry number of that brewery.

(e) *Additional information.* The appropriate TTB officer may at any time require you to file additional information concerning a fermented product, ingredients, or processes, in order to determine whether a formula should be approved or disapproved or whether the approval of a formula should be continued.

(26 U.S.C. 5415, 5555, 7805(a))

### § 25.58 New and superseding formulas.

(a) *New formulas.* Except as otherwise provided in paragraph (b) of this section, you must file a new formula (with a new formula number) for approval by TTB if you—

(1) Create an entirely new fermented product that requires a formula;

(2) Add new ingredients to an existing formulation;

(3) Delete ingredients from an existing formulation;

(4) Change the quantity of an ingredient used from the quantity or range of usage in an approved formula;

(5) Change an approved processing, filtration, or other special method of manufacture that requires the filing of a formula; or

(6) Change the contribution of alcohol from flavors or ingredients that contain alcohol.

(b) *Superseding formulas.* You may file a superseding formula, instead of a new formula, if you have made any change listed in paragraphs (a)(2) through (a)(6) of this section and that change is not of a type that would require a holder of a certificate of label approval to file a new application for label approval on TTB Form 5100.31.

(1) A superseding formula replaces an existing formula, and you should file one only if you do not intend to use the existing formula any more. A superseding formula must be filed with TTB for approval. When TTB approves a superseding formula, TTB will cancel your previous formula.

(2) You may use the same formula number for a superseding formula that you used for the formula the superseding formula replaces, but you must annotate the formula number to indicate it is a superseding formula number. (For example, ''Formula 2, superseding.'')

(c) When you file a new or superseding formula with TTB, you must follow the procedures and other requirements of §§ 25.56 and 25.57.

## Subpart G—Qualification of a Brewery

ORIGINAL QUALIFICATION

### § 25.61 General requirements for notice.

(a) *Establishment.* Operations as a brewer may be conducted only by a person who has given notice as a brewer under this subpart. A person may not commence the business of a brewer until the appropriate TTB officer approves the brewery and the brewer's notice, including all documents made part of that notice.

(b) *Brewer's Notice, Form 5130.10.* Each person must, before commencing business as a brewer, give notice on Form 5130.10. Each person continuing business as a brewer as provided in § 25.71 must give notice on Form 5130.10. Each notice will be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the notice will be made part of the notice.

(c) *Additional information.* The appropriate TTB officer may at any time require the brewer to furnish, as part of the notice, additional information which is necessary to protect and insure collection of the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.62 Data for notice.

(a) *Required information.* The brewer shall prepare the notice on Form 5130.10 and shall include the following information:

(1) Serial number.

(2) Purpose for which filed.

(3) Name and principal business address of the brewer and the location of the brewery if different from the business address.

(4) Statement of the type of business organization and of the persons interested in the business, supported by the information listed in § 25.66.

(5) Description of brewery, as specified in § 25.68.

(6) A list of trade names which the brewer intends to use in doing business or in packaging beer.

(7) [Reserved]

(8) The name and address of the owner of the land or buildings comprising the brewery, and of any mortgagee or other encumbrancer of the land or buildings comprising the brewery.

(9) The 24-hour cycle of operations at the brewery which is to be the brewer's business day.

(10) The process by which the brewer intends to render beer unfit for beverage use when beer is to be removed for use in manufacturing under §§ 25.191–25.192.

(11) Statement showing ownership or controlling interests in other breweries which will establish eligibility for the transfer of beer without payment of tax between breweries of the same ownership, as authorized in § 25.181.

(12) The date of the notice and the name and signature of the brewer or person authorized to sign on behalf of the brewer.

(b) *Incorporation by reference.* If any of the information required by paragraph (a)(4) of this section is on file with an TTB office in connection with the qualification of any other premises operated by the brewer, that information, if accurate and complete, may be incorporated into the brewer's notice by reference.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB–21, 70 FR 237, Jan. 3, 2005]

### § 25.63 Notice of registration.

The Brewer's Notice, Form 5130.10, when approved by the appropriate TTB officer, will constitute the notice of registration of the brewery. The appropriate TTB officer will not approve the notice until the notice and all incorporated documents are complete, accurate, and in compliance with the requirements of this part. A person may not operate a brewery until the notice required by this subpart has been approved by the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.64 Maintenance of notice file.

The brewer shall maintain the approved Brewer's Notice, Form 5130.10, and all incorporated documents at the brewery premises, in complete and current condition, readily available for inspection by an appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.65 Power of attorney.

The brewer shall execute and file a Form 1534 (5000.8) for each person authorized to sign or act on behalf of the brewer. The Form 1534 (5000.8) is not required for persons whose authority is furnished in the Brewer's Notice, Form 5130.10.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.66 Organizational documents.

The supporting information required by paragraph (a)(4) of § 25.62 includes, as applicable, the following:

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

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

(3) Extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation; and

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

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

(c) *Statement of interest.* (1) Names and addresses of all persons having 10 percent or more stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another person. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons

interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the appropriate TTB officer; or

(2) In the case of an individual owner or partnership, the name and address of each person holding an interest in the brewery, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section, and additional documents such as the articles of incorporation, bylaws, and State certificates authorizing the brewer to operate in the State where located (if other than the State in which the brewery is incorporated) shall be made available to any appropriate TTB officer upon request. In the case of multiplant brewers, these documents may be made available at the brewer's home brewery. Each brewer's notice filed by multiplant brewers will state the location where these corporate documents may be inspected.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.67 [Reserved]

### § 25.68 Description of brewery.

(a) The Brewer's Notice, Form 5130.10, will include a description of (1) each tract of land comprising the brewery, and (2) a listing of each brewery building by its designated letter or number, giving the approximate ground dimensions and the purpose for which ordinarily used.

(b) The description of the land will be in sufficient detail to enable appropriate TTB officers to determine the boundaries of the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

## CHANGES AFTER ORIGINAL QUALIFICATION

### § 25.71 Amended or superseding notices.

(a) *Requirement for amended notice.* (1) When there is a change with respect to the information shown in the Brewer's Notice, Form 5130.10, the brewer shall within 30 days of the change (except as otherwise provided in this subpart) submit an amended notice setting forth the new information. Changed notices will be submitted in skeleton form, with unchanged items marked ''No change since Form 5130.10, Serial No. _____.''

(2) The appropriate TTB officer may require immediate filing of an amended Form 5130.10 if the accuracy of existing documents has been affected by any change.

(b) *Requirement for superseding notice.* (1) The appropriate TTB officer may require a brewer to file a new and complete notice, superseding those previously filed, in conjunction with the filing of a new bond. This superseding notice will become effective on the date of the brewer's bond or on the date of the brewer's bond continuation certificate.

(2) If the information required by § 25.62(a) (4), (5), (6), (7), (9), and (10) is on file as part of an approved Form 5130.10 and is current, the brewer may incorporate by reference those documents as part of any superseding notice.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.72 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a brewery, the outgoing brewer shall comply with the requirements of § 25.85. The successor brewer shall, before beginning operations, qualify in the same manner as the proprietor of a new brewery. The successor brewer shall file a new notice and bond in his or her own name. Beer on hand may be transferred without payment of tax to the successor brewer and will be accounted for by that brewer.

(b) *Fiduciary.* (1) If the successor to the brewer is an administrator, executor, receiver, trustee, assignee or other fiduciary, the fiduciary may in lieu of filing a new notice and bond, file an amended notice and furnish a consent of surety extending the terms of the predecessor's bond or continuation certificate.

(2) The fiduciary shall furnish the appropriate TTB officer a certified copy of the court order or other document showing qualification as fiduciary. The

effective date of the qualifying documents filed by a fiduciary will be the same as the date of the order, or the date therein specified for the fiduciary to assume control. If the fiduciary was not appointed by the court, the date of the appointment will be the effective date of the qualifying documents filed by the fiduciary.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.73 Change in partnership.

(a) *New notice required.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, constitutes a change in proprietorship. Unless exempted by paragraph (b) of this section, the death, bankruptcy or adjudicated insolvency of one or more partners results in a dissolution of the partnership and a change in proprietorship. The successor shall qualify the brewery in the same manner as the proprietor of a new brewery.

(b) *Continuing partnership.* A surviving partner or partners may continue to operate the brewery for purposes of liquidation and settlement under the following conditions:

(1) Under the laws of the State where the partnership was formed, the partnership is not terminated on death or insolvency of a partner(s); and

(2) Under the laws of the State where the partnership was formed, the surviving partner(s) has the exclusive right to control and possession of the partnership assets for the purpose of liquidation and settlement; and

(3) A consent of surety is filed in which the surety and the surviving partner(s) agree to remain liable on the bond.

(c) *Settlement of partnership.* If the surviving partner(s) acquires the business on completion of the settlement of the partnership, that partner(s) shall qualify in his or her own name from the date of acquisition and give a new brewer's notice on Form 5130.10 and a new bond on Form 5130.22.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 10540, Mar. 27, 1986]

### § 25.74 Change in stockholders.

Changes in the list of stockholders furnished under the provisions of § 25.66(c)(1) shall be submitted annually by the brewer on July 1 or on any other date approved by the appropriate TTB officer. When the sale or transfer of capital stock results in a change in the control or management of the business, notification of the change will be made within 30 days in accordance with § 25.71.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.75 Change in officers and directors.

When there is any change in the list of officers or directors furnished under the provisions of § 25.66(a)(4), the brewer shall submit, within 30 days of the change, an amended notice on Form 5130.10. If the brewer has shown to the satisfaction of the appropriate TTB officer that certain corporate officers listed on the original notice have no responsibilities in connection with the operations covered by the notice, the appropriate TTB officer may waive the requirements for submitting applications for amended notice to cover changes of those corporate officers. In the case of multiplant brewers, new brewers notices need not be filed for those breweries in which the lists of officers and directors are incorporated by reference in their brewer's notices under § 25.62(b).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.76 [Reserved]

### § 25.77 Change in location.

When there is a change in the location of the brewery, the brewer shall file an amended Form 5130.10, and a new bond, Form 5130.22, or a consent of surety, Form 1533 (5000.18), in accordance with § 25.91, extending the terms of the bond or continuation certificate to cover operations at the new location. The brewer may not begin operations at the new location until the appropriate TTB officer approves the required documents.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.78 Change in premises.

Except as authorized in § 25.81, when the brewery is to be extended or curtailed, the brewer shall file an amended Form 5130.10. The additional facilities covered by the extension may not be used for the proposed purposes, and the portion to be curtailed may not be used for other than the previously approved purposes, prior to approval of Form 5130.10

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

ALTERNATION OF OPERATIONS

### § 25.81 Alternation of brewery and bonded or taxpaid wine premises.

(a) *General.* A brewer operating a contiguous bonded winery or taxpaid wine bottling house may, as provided in this section, alternate the use of each premises by extension or curtailment.

(b) *Qualifying documents.* The brewer shall file and receive approval of the following qualifying documents:

(1) Form 5120.25 and Form 5130.10 to cover the curtailment and extension of the premises to be alternated.

(2) Special diagrams, in duplicate, delineating the brewery premises and the bonded or taxpaid wine premises as they will exist both during extension and curtailment. The diagrams will clearly depict all areas, buildings, floors, rooms, equipment and pipelines which are to be subject to alternation in their relative operating sequence.

(3) Evidence of existing bond, consent of surety, continuation certificate, or a new bond to cover the proposed alternation of premises.

(c) *Brewer's responsibility.* After approval of qualifying documents, the brewer may alternate the designated premises pursuant to a letterhead notice submitted to the appropriate TTB officer. The notice will contain the information required by paragraph (d) of this section. Prior to the effective date and hour of the alternation, the brewer shall

(1) Remove all beer on brewery premises to be alternated to bonded or taxpaid wine premises, or

(2) Remove all wine from bonded to taxpaid wine premises to be alternated to brewery premises.

(d) *Information for notice.* The notice required by paragraph (c) of this section will contain the following information:

(1) Plant name and address;

(2) Serial number;

(3) Effective date and hour of proposed change;

(4) Whether premises are to be curtailed or extended;

(5) Purpose of curtailment or extension;

(6) Identification of the special diagram depicting the premises as they exist when curtailed or extended; and

(7) Date of execution and signature of brewer.

(e) *Separation of premises.* The appropriate TTB officer may require that the portion of brewery or bonded or taxpaid wine premises extended or curtailed under this section be separated, in a manner satisfactory to the appropriate TTB officer, from the remaining portion of the brewery or bonded or taxpaid premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended, 1389, as amended, 1390, as amended (26 U.S.C. 5401, 5411, 5415))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986; as amended by T.D. ATF–299, 55 FR 24989, June 19, 1990]

DISCONTINUANCE OF BUSINESS

### § 25.85 Notice of permanent discontinuance.

When a brewer desires to discontinue business permanently, he or she must file a notice on Form 5130.10. The brewer must state the purpose of the notice as ''Discontinuance of business'' and give the date of the discontinuance. When all beer has been lawfully disposed of, appropriate TTB officer will approve the Form 5130.10 and return a copy to the brewer. The brewer shall file a report on Form 5130.9 showing no beer or cereal beverage on hand and marked ''Final Report.''

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

## Subpart H—Bonds and Consents of Surety

### § 25.91 Requirement for bond.

(a) *General.* Every person intending to commence the business of a brewer shall file a bond, Form 5130.22, as prescribed in this subpart, covering operations at the brewery, at the time of filing the original Brewer's Notice, Form 5130.10. Every brewer intending to continue the business of a brewer shall, once every 4 years, or as provided in § 25.95, execute and file a new bond, or continuation certificate as provided in § 25.97.

(b) *Conditions of the bond.* The Brewer's Bond, Form 5130.22, will be conditioned upon the brewer faithfully complying with all provisions of law and regulations relating to the activities covered by the bond, and upon paying all taxes imposed by 26 U.S.C. Chapter 51 and all interest and penalties incurred or fines imposed for violations of those provisions.

(c) *Additional information.* The appropriate TTB officer shall require, in connection with any brewer's bond, a statement executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 25.101(a)(1), or has been convicted of any offense set forth in § 25.101(a)(2). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding the conviction or compromise.

(d) *Bond required before beginning business.* A person may not begin business or continue business as a brewer until first receiving notice that the appropriate TTB officer has approved the bond, continuation certificate, or consent of surety, as required by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401); sec. 4(a), Pub. L. 91–673, 84 Stat. 2057 (26 U.S.C. 5417))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.92 Consent of surety.

A brewer may change the terms of any bond filed under this part by filing a consent of surety. Consents of surety will be executed on Form 1533 (5000.18) by the brewer and the surety on the bond, with the same formality and proof of authorization as required for the execution of a bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.93 Penal sum of bond.

(a)(1) *Brewers filing semimonthly tax returns.* For brewers filing tax returns and remitting taxes semimonthly under § 25.164(c)(2), the penal sum of the brewers bond must be equal to 10 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year during the period of the bond on beer:

(i) Removed for transfer to the brewery from other breweries owned by the same brewer;

(ii) Removed without payment of tax for export or for use as supplies on vessels and aircraft;

(iii) Removed without payment of tax for use in research, development, or testing; and

(iv) Removed for consumption or sale.

(2) *Brewers filing quarterly tax returns.* For brewers filing tax returns and remitting taxes quarterly under § 25.164(c)(3), the penal sum of the brewers bond must be equal to 29 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year during the period of the bond on beer:

(i) Removed for transfer to the brewery from other breweries owned by the same brewer;

(ii) Removed without payment of tax for export or for use as supplies on vessels and aircraft;

(iii) Removed without payment of tax for use in research, development, or testing; and

(iv) Removed for consumption or sale.

(b) *Concentrate.* A brewer who concentrates beer under subpart R of this part shall calculate the penal sum of

the bond by computing 10 percent of the amount of tax at the rates prescribed by law, on the maximum quantity of beer used in the production of concentrate during a calendar year. The brewer shall add this amount to the penal sum calculated under paragraph (a) of this section to determine the total penal sum of the brewer's bond.

(c) *Maximum and minimum penal sums.* The maximum penal sum of the bond (or total penal sum if original and strengthening bonds are filed) is not to exceed $150,000 when the tax on beer is to be prepaid, or $500,000 when the tax is to be deferred as provided in §25.164. The minimum penal sum of a bond is $1,000.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB–41, 71 FR 5603, Feb. 2, 2006]

### §25.94 Strengthening bonds.

(a) *Requirement.* When the penal sum of the brewer's bond (calculated as provided in §25.93) in effect is not sufficient, the principal may prepay the tax on beer as provided in subpart K of this part, or give a strengthening bond in sufficient penal sum if the surety is the same as on the bond in effect. If the surety is not the same, a new bond covering the entire liability is required.

(b) *Restrictions.* A strengthening bond may not in any way release a former bond or limit a bond to less than the full penal sum.

(c) *Date of execution.* Strengthening bonds will show the current date of execution and their effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### §25.95 New bond.

The appropriate TTB officer may at any time, at his or her discretion, require a new bond. A new bond is required immediately in the case of insolvency of a surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity shall execute a new bond or obtain a consent of surety on all bonds in effect. When the interests of the Government so demand, or in any case when the security of the bond becomes impaired for any reason, the principal will be required to give a new bond. When a bond is found to be not acceptable by the appropriate TTB officer, the principal will be required immediately to obtain a new and satisfactory bond or discontinue business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### §25.96 Superseding bond.

When the principal submits a new bond to supersede a bond or bonds in effect, the appropriate TTB officer, after approving the superseding bond, will issue a notice of termination for the superseded bond under the provisions of this subpart. Superseding bonds will show the current date of execution and their effective date.

### §25.97 Continuation certificate.

If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force for a succeeding period of not less than 4 years from the expiration date of the bond or continuation certificate, the brewer may submit, in lieu of a new bond, a Brewer's Bond Continuation Certificate on Form 5130.23, executed under the penalties of perjury, by the brewer and the surety attesting to continuation of the bond. Each continuation certificate will constitute a bond and all provisions of law and regulations applicable to bonds on Form 5130.22 given under this part, including the disapproval of bonds, are applicable to continuation certificates.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### §25.98 Surety or security.

(a) *Bond coverage.* Bonds required by this part will be given with corporate surety or collateral security.

(b) *Corporate surety.* Surety bonds may be given only with surety companies holding certificates of authority from the Secretary as acceptable sureties on Federal bonds, subject to the limitations set forth in the current revision of Treasury Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Reinsuring Companies.

(c) *Revisions of Circular No. 570.* 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 Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226.

(d) *More than one corporate surety.* A bond may be executed by two or more corporate sureties. Each corporate surety may limit its liability in terms on the face of the bond in a specified amount. This amount may not exceed the limitations set forth for corporate security by the Secretary which are set forth in the current revision of Treasury Department Circular No. 570. The sum of the liabilities for the sureties will equal the required penal sum of the bond.

(e) *Deposit of collateral securities in lieu of corporate surety.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of corporate surety in accordance with 31 CFR Part 225.

(96 Stat. 1068, 1085 (31 U.S.C. 9304–9308); sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.99 Filing powers of attorney.

Each bond, continuation certificate, and each consent of surety will be accompanied by a power of attorney authorizing the agent or officer to execute the document. The power of attorney will be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it will be accompanied by a certificate of its validity.

(96 Stat. 1068, 1085 (31 U.S.C. 9304–9308))

## DISAPPROVAL OR TERMINATION OF BONDS OR CONSENTS OF SURETY

### § 25.101 Disapproval of bonds or consents of surety.

(a) *Reasons for disapproval.* The appropriate TTB officer may disapprove a bond or consent of surety if the individual, firm, partnership, corporation, or association giving the bond or consent of surety, or if any of the above entities owning, controlling or actively participating in the management of a business giving a bond as a brewer, has been previously convicted in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of law of the United States if it related to internal revenue or customs taxation of distilled spirits, wines or beer, or if the offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise; or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wines, beer, or other intoxicating liquor.

(b) *Appeal of disapproval.* If the bond or consent of surety is disapproved, the person giving the bond or consent of surety may appeal the disapproval to the appropriate TTB officer, who will grant a hearing in the matter if requested by the applicant or brewer, and whose decision will be final.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.102 Termination of surety's liability.

The liability of a surety on a bond required by this part will be terminated only as to liability arising on or after: (a) the effective date of a superseding bond; (b) the date of approval of the discontinuance of business of the brewer; or (c) following the giving of notice by the surety as provided in § 25.103.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### § 25.103 Notice by surety for relief from liability under bond.

A surety may, at any time, in writing, notify the principal and the appropriate TTB officer that the surety desires after a specified date (not less than 60 days after the date of service

on the principal) to be relieved of any liability under the bond which is incurred by the principal after the date named in the notice. The surety shall include proof of service of the notice on the principal with the notice filed with the appropriate TTB officer. The notice will become effective on the date named, unless the surety withdraws the notice, in writing. The surety on the bond remains liable under the bond with respect to any liability incurred by the principal while the bond is in effect.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

### §25.104 Termination of bonds.

Brewer's bonds may be terminated as to liability for future removals or receipts (a) pursuant to application of the surety as provided in §25.103, (b) on approval of a superseding bond, or (c) on notification by the principal that the business has been discontinued. On termination of the surety's liability under a bond, the appropriate TTB officer will notify the principal and sureties.

(31 U.S.C. 9301, 9303)

### §25.105 Release of collateral security.

Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part will be released in accordance with 31 CFR Part 225. When the appropriate TTB officer determines there is no outstanding liability against the bond and that it is no longer necessary to hold the security, he or she shall fix the date or dates on which a part or all of the security will be released. At any time prior to the release of the security, the appropriate TTB officer may, for proper cause, extend the date of release of the security for an additional length of time as may be appropriate.

(31 U.S.C. 9301, 9303)

## Subpart I—Special Taxes

LIABILITY FOR SPECIAL TAX

### §25.111 Brewer's special tax.

(a) *General.* Except as otherwise provided in paragraph (c) of this section, every brewer shall pay a special (occupational) tax at the rate specified by §25.111a or §25.111b, whichever is applicable. The tax shall be paid on or before the date of commencing business as a brewer, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* A brewer who was engaged in business on January 1, 1988, and paid a special (occupational) tax for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased special tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

(c) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the proprietor must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(26 U.S.C. 5091, 5142)

[T.D. ATF–271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### §25.111a Special tax rates.

(a) *Prior rates.* The special (occupational) tax imposed on brewers prior to January 1, 1988, was $110 a year, except that the special tax for any brewer of less than 500 barrels a year was $55 a year.

(b) *Rate effective January 1, 1988.* The special tax rate imposed on brewers (other than small brewers as defined in §25.111b) is $1000 a year, except that the

tax rate is zero during the suspension period described in § 25.111(c).

(26 U.S.C. 5091)

[T.D. ATF–271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.111b Reduced rate of tax for small brewers.

(a) *General.* Effective January 1, 1988, 26 U.S.C. 5091(b) provides for a reduced rate of tax with respect to any brewer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the tax imposed by § 25.111 relates) are less than $500,000. The rate of tax for such a brewer is $500 a year, except that the tax rate is zero during the suspension period described in § 25.111(c). The ''taxable year'' to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ''controlled group''; in that case, the rules of paragraph (b) of this section shall apply.

(b) *Controlled group.* In determining gross receipts, all persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for purposes of paragraph (a) of this section. ''Controlled group'' means a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(d) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5091)

[T.D. ATF–271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.112 Wholesaler's special tax.

A brewer shall be subject to or exempt from a wholesaler's special (occupational) tax as provided in part 31 of this chapter.

(26 U.S.C. 5111, 5142)

[T.D. ATF–271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 25.113 Each place of business taxable.

(a) *General.* A brewer incurs special tax liability , or must register by filing the special tax return during the suspension period described in § 25.111(c), for each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(b) *Exception for contiguous areas.* A brewer will not incur additional special tax liability (or will not have to register during the suspension period described in § 25.111(c)) for sales of beer made at a location other than on brewery premises described on the brewer's notice, Form 5130.10, if the location

where such sales are made is contiguous to the brewery premises in the manner described in paragraph (a) of this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

[T.D. ATF–271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.114 Exemptions from dealer's special taxes.

(a) *Brewer.* A brewer is not required to pay special tax or to register during the suspension period described in § 25.111(c), as a wholesale or retail dealer in beer because of sales, at the principal place of business or at the brewery, of beer which at the time of sale is stored at the brewery or which had been removed and stored in a taxpaid storeroom operated in connection with the brewery. Each brewer shall have only one exemption from dealer's special tax or registration for each brewery. The brewer may designate, in writing to the appropriate TTB officer, that the principal place of business will be exempt from dealer's special tax or registration; otherwise, the exemption will apply to the brewery.

(b) *Wholesale dealer.* A wholesale dealer in beer who has paid the appropriate special tax, or who has registered during the suspension period described in § 25.111(c), will not again be required to pay special tax or register as a wholesale dealer in beer because of sales of beer to wholesale or retail dealers in liquors or beer or to limited retail dealers, at the purchaser's place of business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5113))

[T.D. ATF–271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

EXECUTION OF SPECIAL TAX RETURNS

### § 25.117 Special tax returns.

Special tax shall be paid by return, and a return is required during the suspension period described in § 25.111(c) even though no tax is due. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of applicable tax, shall be filed with TTB in accordance with instructions on the form.

[T.D. ATF–271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.118 Preparation of TTB Form 5630.5.

All of the information called for on Form 5630.5 shall be provided, including:

(a) The true name of the taxpayer.

(b) The trade name(s) (if any) of the business(es) subject to special tax.

(c) The employer identification number (see § 25.121).

(d) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(e) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 25.111(c).

(f) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with the Brewer's Notice, and if the information previously provided is still current.

[T.D. ATF–271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.119 Multiple locations and/or classes of tax.

A taxpayer subject to special tax (or required to register during the suspension period described in § 25.111(c)) for

the same period at more than one location or for more than one class of tax shall—

(a) File one special tax return, TTB Form 5630.5, with payment of applicable tax, to cover all such locations and classes of tax; and

(b) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid or for which registration is being made during the suspension period described in § 25.111(c). The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 25.300(c).

[T.D. ATF–271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.120 Signing of TTB Forms 5630.5.

(a) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as ''individual owner,'' ''member of firm,'' or, in the case of a corporation, the title of the officer.

(b) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(c) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(d) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

[T.D. ATF–271, 53 FR 17548, May 17, 1988]

EMPLOYER IDENTIFICATION NUMBERS

### § 25.121 Employer identification number.

The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.113 of this chapter.

(26 U.S.C. 6109, 6676)

[T.D. ATF–271, 53 FR 17548, May 17, 1988, as amended by T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

### § 25.122 Application for employer identification number.

Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(26 U.S.C. 6109)

[T.D. ATF–271, 53 FR 17548, May 17, 1988]

### § 25.123 Preparation and filing of IRS Form SS–4.

The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

[T.D. ATF–271, 53 FR 17549, May 17, 1988]

SPECIAL TAX STAMPS

### § 25.125 Issuance of special tax stamps.

(a) Except as otherwise provided in paragraph (b) of this section, upon filing a properly executed return on TTB Form 5630.5, together with the applicable full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 25.119, but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) During the suspension period described in § 25.111(c) when registration is required but no tax is due, a special tax stamp will not be issued.

(26 U.S.C. 6806)

[T.D. ATF–271, 53 FR 17549, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62245, Oct. 31, 2005]

### § 25.126 Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–251, 52 FR 19313, May 22, 1987]

### § 25.127 Examination of special tax stamps.

All stamps denoting payment of special tax will be kept available for inspection by appropriate TTB officers, at the location for which designated, during business hours.

(Act of August 16, 1954 68A Stat. 831, as amended (26 U.S.C. 6806); sec. 201, Pub. L. 85–859, 72 Stat. 1348, as amended (26 U.S.C. 5146))

CHANGES IN SPECIAL TAX STAMPS

### § 25.131 Change in name.

If there is a change in the corporate or firm name, or in the trade name, as shown on Form 5630.5, the brewer shall file an amended special tax return as soon as practicable after the change covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The brewer shall attach the special tax stamp for endorsement of the change in name, except if the change occurs during the suspension period described in § 25.111(c).

(26 U.S.C. 7011)

[T.D. ATF–271, 53 FR 17549, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 25.132 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a brewery, the successor shall file a new special tax return, pay a new special tax, and obtain the required special tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 25.111(c) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(b) *Exemption for certain successors.* Persons having the right of succession provided for in § 25.133 may carry on the business for the remainder of the period for which the special tax was paid (or for which registration was made during the suspension period described in § 25.111(c)), if within 30 days after the date on which the successor begins to carry on the business, the successor files a return on Form 5630.5, which shows the basis of succession. Except during the suspension period described in § 25.111(c), a person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business. During

the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(Act of August 16, 1954, 68A Stat. 845, as amended (26 U.S.C. 7011); sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

[T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 25.133 Persons having right of succession.

Under the conditions indicated in § 25.132, the right of succession will pass to certain persons in the following cases:

(a) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(b) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(c) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(d) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (25 U.S.C. 5143))

### § 25.134 Change in location.

(a) Subject to paragraph (b) of this section, if there is a change in location of a taxable place of business, the brewer shall, within 30 days after the change, file an amended special tax return covering the new location. The brewer shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the brewer does not file the amended return within 30 days, the brewer is required to file a new special tax return, pay a new special tax, and obtain a new special tax stamp.

(b) If the change in location occurs during the suspension period described in § 25.111(c) when no tax is due and no special tax stamp is issued, the requirements of paragraph (a) of this section still apply, except with regard to attachment of a special tax stamp and payment of a new special tax. During the suspension period, a failure to comply with paragraph (a) of this section may result in a penalty under 26 U.S.C. 5603(b).

(26 U.S.C. 5143, 7011)

[T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

## Subpart J—Marks, Brands, and Labels

### § 25.141 Barrels and kegs.

(a) *General requirements.* The brewer's name or trade name and the place of production (city and, if necessary for identification, State) shall be permanently marked on each barrel or keg. If the place of production is clearly shown on the bung or on the tap cover, or on a label securely affixed to each barrel or keg, the place of production need not be permanently marked on each barrel or keg. No statement as to payment of internal revenue taxes may be shown.

(b) *Breweries of same ownership.* (1) If two or more breweries are owned or operated by the same person, firm, or corporation (as defined in § 25.181), the place of production:

(i) May be shown as the only location on the bung, or on the tap cover, or on a separate label attached to the keg;

(ii) May be included in a listing of the locations of breweries qualified under this part if the place of production is not given less emphasis than any of the other locations; or

(iii) Need not be shown if the brewer's principal place of business is shown in lieu of any other location. The brewer's principal place of business will be the location of a brewery operated by the brewer and qualified under this part.

(2) If the location of two or more breweries is shown on the keg, bung, tap cover, or on a separate label attached to the keg (paragraph (b)(1)(ii)), or if the brewer's principal place of business is shown in lieu of the actual place of production (paragraph (b)(1)(iii)), the brewer shall indicate the actual place of production by printing, coding or other markings on the keg, bung, tap cover, or on a separate label attached to the keg. The coding system employed will permit an appropriate TTB officer to determine the place of production (including street address if two or more breweries are located in

the same city) of the beer. The brewer must notify the appropriate TTB officer prior to employing a coding system.

(c) *Label approval required.* Labels or tap covers used by brewers shall be covered by certificates of label approval, Form 5100.31, when required by Part 7 of this chapter.

(Approved by the Office of Management and Budget under control number 1512–0474)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–225, 51 FR 8492, Mar. 12, 1986; T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.142 Bottles.

(a) *Label requirements.* Each bottle of beer shall show by label or otherwise the name or trade name of the brewer, the net contents of the bottle, the nature of the product such as beer, ale, porter, stout, etc., and the place of production (city and, when necessary for identification, State). No statement as to payment of internal revenue taxes may be shown.

(b) *Breweries of same ownership.* (1) If two or more breweries are owned or operated by the same person, firm, or corporation (as defined in § 25.181), the place of production:

(i) May be shown as the only location on the label;

(ii) May be included in a listing of the locations of breweries qualified under this part if the place of production is not given less emphasis than any of the other locations; or

(iii) Need not be shown if the brewer's principal place of business is shown in lieu of any other location. The brewer's principal place of business will be the location of a brewery operated by the brewer and qualified under this part.

(2) If the location of two or more breweries is shown on the label (paragraph (b)(1)(ii)), or if the brewer's principal place of business is shown on the label in lieu of the actual place of production (paragraph (b)(1)(iii)), the brewer shall indicate the actual place of production by printing, coding or other markings on the label, bottle, crown or lid. The coding system employed will permit an appropriate TTB officer to determine the place of production (including street address if two or more breweries are located in the same city) of the beer. The brewer must notify the appropriate TTB offcer prior to employing a coding system.

(c) *Distinctive names.* If the brewer's name, trade name or brand name includes the name of a city which is not the place where the beer was produced, the appropriate TTB officer may require the brewer to state the actual place of production on the label.

(d) *Tolerances.* The statement of net contents shall indicate exactly the volume of beer within the bottle except for variations in measuring as may occur in filling conducted in compliance with good commercial practice. The barrel equivalent of bottles filled during a consecutive three month period, calculated on the basis of the brewer's fill test records, may not vary more than 0.5 percent from the barrel equivalent of bottles filled during the same period, calculated on the basis of the stated net contents of the bottles. The brewer is liable for the tax on the entire amount of beer removed, without benefit of tolerance, when the fill of bottles and cans exceeds the tolerance for the three month period, or when filling is not conducted in compliance with good commercial practice.

(e) *Label approval required.* Labels used by brewers shall be covered by certificates of label approval, Form 5100.31, when required by Part 7 of this chapter.

(f) *Short-fill bottles.* A brewer may dispose of taxpaid short-fill bottles of beer to employees for their use but not for resale. These bottles need not be labeled, but if labeled they need not show an accurate statement of net contents.

(Approved by the Office of Management and Budget under control number 1512–0474)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–225, 51 FR 8492, Mar. 12, 1986; T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.143 Cases.

(a) *Brewer's name.* The brewer's name or trade name will be shown on each

case or other shipping container of bottled beer. A brewer may use unmarked cases to hold:

(1) Cartons of beer, if the visible portion of the cartons shows the required name; or

(2) Bottles or cans with plastic carriers, if the visible portion of the bottles or cans shows the required name.

(b) *Other information.* The brewer may show on a case or shipping container the place of production (city and, when necessary for identification, State), and the addresses of other breweries owned by the same person, firm, or corporation (as defined in § 25.181). If only one address is shown, it will be that of the producing brewery, or of the brewer's principal place of business.

(Approved by the Office of Management and Budget under control number 1512–0474)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–225, 51 FR 8492, Mar. 12, 1986]

### § 25.144 Rebranding barrels and kegs.

(a) A brewer may not use a barrel or keg which bears the name of more than one brewer, and except as provided in § 25.231, may not use a barrel or keg bearing the name of a brewer other than the producing brewer.

(b) A brewer who purchases or otherwise obtains barrels or kegs from another brewer shall permanently remove or durably cover the original marks and brands after notifying the appropriate TTB officer of the proposed action. A brewer may use the barrels or kegs obtained without removing or covering the original marks and brands if the brewer:

(1) Adopts a trade name substantially identical to the name appearing on the barrels or kegs; or

(2) Succeeds to a brewer who has discontinued business, in which case the brewer may add marks or brands, in accordance with § 25.141, which indicate ownership.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

### § 25.145 Tanks, vehicles, and vessels.

(a) Each brewer who transfers beer to another brewery of the same ownership (as defined in § 25.181), or who exports beer without payment of tax, as provided in § 25.203, shall plainly and durably mark each tank, tank car, tank truck, tank ship, barge, or deep tank of a vessel in accordance with paragraph (b) of this section. These marks may be placed on a label securely affixed to the route board of the container.

(b) The brewer shall mark each container with—

(1) The designation ''Beer'';

(2) The brewer's name;

(3) The address of the brewery from which removed;

(4) The address of the brewery to which transferred or the marks required for exportation in Part 28 of this chapter, as applicable;

(5) The date of shipment; and

(6) The quantity, expressed in barrels.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1389, as amended (26 U.S.C. 5053, 5414))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

## Subpart K—Tax on Beer

LIABILITY FOR TAX

### § 25.151 Rate of tax.

All beer, brewed or produced, and removed for consumption or sale, is subject to the tax prescribed by 26 U.S.C. 5051, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel as authorized in § 25.156.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051, 5052))

### § 25.152 Reduced rate of tax for certain brewers.

(a) *General.* Section 5051(a)(2) of Title 26 U.S.C. provides for a reduced rate of tax on the first 60,000 barrels of beer removed for consumption or sale by a brewer during a calendar year. To be eligible to pay the reduced rate of tax, a brewer:

(1) Shall brew or produce the beer at a qualified brewery in the United States;

(2) May not produce more than 2,000,000 barrels of beer per calendar year; and

(3) May not be a member of a ''controlled group'' of brewers whose members together produce more than 2,000,000 barrels of beer per calendar year.

The appropriate TTB officer shall deny use of the reduced rate of tax provided by 26 U.S.C. 5051(a)(2) where it is determined that the allowance of such a reduced rate would benefit a person who would otherwise fail to qualify for use of such rate.

(b) *Definitions.* For the purpose of determining eligibility for payment of the reduced rate of tax on beer, terms have the following meanings:

(1) *Controlled group.* A related group of brewers as defined in 26 U.S.C. 5051(a)(2)(B). Controlled groups include, but are not limited to:

(i) Parent-subsidiary controlled groups as defined in 26 CFR 1.1563–1(a)(2);

(ii) Brother-sister controlled groups as defined in 26 CFR 1.1563–1(a)(3); and

(iii) Combined groups as defined in 26 CFR 1.1563–1(a)(4). Stock ownership in a corporation need not be direct and 51% constructive ownership, defined in 26 CFR 1.1563–3, may be acquired through:

(A) An option to purchase stock;

(B) Attribution from partnerships;

(C) Attribution from estate or trusts;

(D) Attribution from corporations; or

(E) Ownership by spouses, children, grandchildren, parents, and grandparents.

(2) *Production of beer.* The production of beer as recorded in the brewer's daily records and reported in the Brewer's Report of Operations, Form 5130.9. For the purpose of determining compliance with the 2,000,000 barrel limitation, production of beer by a brewer or a controlled group of brewers includes both beer produced at qualified breweries within the United States and beer produced outside the United States.

(c) *Brewers operating more than one brewery.* Brewers who operate more than one brewery shall include the combined production of beer at all their breweries when determining eligibility under the 2,000,000 barrel limitation. The reduced rate of tax applies to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the brewer; the brewer shall apportion the 60,000 barrels among the breweries in the manner described in the notice as provided by § 25.167(b)(3).

(d) *Controlled groups of brewers.* Members of a controlled group of brewers shall include the combined production of beer by all member brewers when determining eligibility under the 2,000,000 limitation. The reduced rate of tax applies to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the controlled group of brewers; the controlled group of brewers shall apportion the 60,000 barrels among member brewers in the manner described in each brewer's notice as provided by § 25.167(b)(3).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5052))

[T.D. ATD–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–307, 55 FR 52738, Dec. 21, 1990; T.D. ATF–345, 58 FR 40357, July 28, 1993]

### § 25.153 Persons liable for tax.

The tax imposed by law on beer (including beer purchased or procured by one brewer from another) shall be paid by the brewer of the beer at the brewery where produced. The tax on beer transferred to a brewery from other breweries owned by the same brewer in accordance with subpart L of this part shall be paid by the brewer at the brewery from which the beer is removed for consumption or sale.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1389, as amended (26 U.S.C. 5054, 5413, 5414))

## DETERMINATION OF TAX

### § 25.155 Types of containers.

Beer may be removed from a brewery for consumption or sale only in barrels, kegs, bottles, and similar containers, as provided in this part. A container which the appropriate TTB officer determines to be similar to a bottle or can will be treated as a bottle for purposes of this part. A container which the appropriate TTB officer determines to be similar to a barrel or keg and which conforms to one of the sizes prescribed for barrels or kegs in § 25.156

will be treated as such for purposes of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended, 1390, as amended (26 U.S.C. 5412, 5416))

### § 25.156 Determination of tax on keg beer.

(a) In determining the tax on beer removed in kegs, a barrel is regarded as a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are whole barrels, halves, thirds, quarters, sixths, and eighths, and beer may be removed in kegs rated at those capacities. The following keg sizes are also authorized at the stated barrel equivalents:

| Size of keg | Barrel equivalent |
|---|---|
| 5 gallons | 0.16129 |
| 30 liter | 0.25565 |
| 50 liter | 0.42608 |

(b) If any barrel or authorized size keg contains a quantity of beer more than 2 percent in excess of its rated capacity, tax will be determined and paid on the actual quantity of beer (without benefit of any tolerance) contained in the keg.

(c) The quantities of keg beer removed subject to tax will be computed to 5 decimal places. The sum of the quantities computed for any one day will be rounded to 2 decimal places and the tax will be calculated and paid on the rounded sum.

(26 U.S.C. 5051)

[T.D. ATF–345, 58 FR 40357, July 28, 1993]

### § 25.157 Determination of tax on bottled beer.

The quantities of bottled beer removed subject to tax shall be computed to 5 decimal places in accordance with the table and instructions in § 25.158. The sum of the quantities computed for any one day will be rounded to 2 decimal places and the tax will be calculated and paid on the rounded sum.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

### § 25.158 Tax computation for bottled beer.

Barrel equivalents for various case sizes are as follows:

(a) *For U.S. measure bottles.*

| Bottle size (net contents in fluid ounces) | Number of bottles per case | Barrel equivalent |
|---|---|---|
| 6 | 12 | 0.01815 |
| 6 | 24 | 0.03629 |
| 7 | 12 | 0.02117 |
| 7 | 24 | 0.04234 |
| 7 | 32 | 0.05645 |
| 7 | 35 | 0.06174 |
| 7 | 36 | 0.06351 |
| 7 | 40 | 0.07056 |
| 7 | 48 | 0.08468 |
| 8 | 12 | 0.02419 |
| 8 | 24 | 0.04839 |
| 8 | 36 | 0.07258 |
| 8 | 48 | 0.09677 |
| 10 | 12 | 0.03024 |
| 10 | 24 | 0.06048 |
| 10 | 48 | 0.12097 |
| 11 | 12 | 0.03327 |
| 11 | 24 | 0.06653 |
| 11.5 | 24 | 0.06956 |
| 12 | 12 | 0.03629 |
| 12 | 15 | 0.04536 |
| 12 | 20 | 0.06048 |
| 12 | 24 | 0.07258 |
| 12 | 30 | 0.09073 |
| 12 | 48 | 0.14516 |
| 12 | 50 | 0.15121 |
| 14 | 12 | 0.04234 |
| 14 | 24 | 0.08468 |
| 16 (1 pint) | 12 | 0.04839 |
| 16 (1 pint) | 24 | 0.09677 |
| 22 | 12 | 0.06653 |
| 22 | 24 | 0.13306 |
| 24 | 12 | 0.07258 |
| 24 | 24 | 0.14516 |
| 30 | 12 | 0.09073 |
| 32 (1 quart) | 12 | 0.09677 |
| 40 | 12 | 0.12097 |
| 64 | 1 | 0.01613 |
| 64 | 4 | 0.06452 |
| 64 | 6 | 0.09677 |
| 128 (1 gallon) | 1 | 0.03226 |
| 288 | 1 | 0.07258 |

(b) *For metric measure bottles.*

| Bottle size (metric net contents) | Number of bottles per case | Barrel equivalent |
|---|---|---|
| 500 milliliters | 24 | 0.10226 |
| 750 milliliters | 12 | 0.07670 |
| 1 liter | 12 | 0.10226 |
| 2 liters | 6 | 0.10226 |
| 5 liters | 1 | 0.04261 |

(c) *For other case sizes.* If beer is to be removed in cases or bottles of sizes other than those listed in the above tables, the brewer shall notify the appropriate TTB officer in advance and request to be advised of the fractional barrel equivalent applicable to the proposed case size.

(26 U.S.C. 5412)

[T.D. ATF–345, 58 FR 40357, July 28, 1993]

### § 25.159 Time of tax determination and payment; offsets.

(a) *Time and payment.* The tax on beer will be determined at the time of its removal for consumption or sale, and will be paid by return as provided in this part.

(b) *Offsets.* During any business day, the quantity of beer returned to the same brewery from which removed is to be taken as an offset against or deducted from the total quantity of beer removed for consumption or sale from that brewery on the day that the beer is returned.

(c) *Offsets not allowed.* An offset or deduction for returned beer will not be allowed if:

(1) The brewer was indemnified by insurance or otherwise in respect of the tax; or

(2) The brewer does not issue credit to the customer for the tax on the returned beer within 30 days of the return of the beer. If the tax is not timely credited after the offset or deduction is taken, the brewer shall make an increasing adjustment on the next tax return.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended (26 U.S.C. 5054, 5056, 5061))

### § 25.160 Tax adjustment for brewers who produce more than 2,000,000 barrels of beer.

Each brewer who has paid tax on beer by return, Form 5000.24, at the reduced rate of tax during a calendar year, but whose production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000.000 barrels of beer in that calendar year, is no longer eligible to pay tax on beer at the reduced rate of tax for any beer removed that calendar year for comsumption or sale. The brewer shall make a tax adjustment for the payment of additional tax no later than the return period in which production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer. The adjustment will be determined by multiplying the difference between the higher and lower rates of tax applicable to beer by the number of barrels removed by the brewer that year at the reduced rate of tax. The brewer shall make tax adjustments for all breweries where tax was paid at the lower rate that year, and shall include interest payable from the date on which tax was paid at the lower rate. In the case of a controlled group of brewers whose production exceeds 2,000,000 barrels of beer, all member brewers who paid tax at the lower rate shall make tax adjustments as determined in this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

## PREPARATION AND REMITTANCE OF TAX RETURNS

### § 25.163 Method of tax payment.

A brewer shall pay the tax on beer by return on Form 5000.24, as provided in §§ 25.164, 25.164a, 25.173 and 25.175. The brewer shall pay the tax by remittance at the time the tax return is rendered, and the remittance will be by check or money order payable to the ''Bureau of Alcohol, Tobacco and Firearms'' and mailed with the return, or will be effected by an electronic fund transfer. In paying the tax, a fractional part of a cent will be disregarded unless it amounts to one-half cent or more, in which case it will be increased to one cent.

[T.D. ATF–251, 52 FR 19314, May 22, 1987, as amended by T.D. ATF–365, 60 FR 33669, June 28, 1995]

### § 25.164 Quarterly and semimonthly returns.

(a) *Requirement for filing.* Each brewer shall pay the tax on beer (unless prepaid) by return on Form 5000.24. The brewer shall file Form 5000.24 as a return regardless of whether tax has been prepaid as provided in § 25.175 during the return period. The brewer shall file a return on Form 5000.24 for each return period even though no beer was removed for consumption or sale.

(b) *Payment of tax.* The brewer shall include for payment with the return the full amount of tax required to be determined (and which has not been prepaid) on all beer removed for consumption or sale during the period covered by the return.

(c) *Return periods.*

(1) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means the taxpayer was not liable for more than $50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

*Taxpayer.* A *taxpayer* is a person who is liable for excise tax imposed with respect to beer by 26 U.S.C. 5051 and 7652 under the same Employer Identification Number as defined in 26 CFR 301.7701–12.

(2) *Semimonthly return period.* Except in the case of a taxpayer who qualifies for, and chooses to use, quarterly return periods as provided in paragraph (c)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods shall run from the brewer's business day beginning on the first day of each month through the brewer's business day beginning on the 15th day of that month, and from the brewer's business day beginning on the 16th day of the month through the brewer's business day beginning on the last day of the month, except as otherwise provided in § 25.164a.

(3) *Quarterly return period.* Effective January 1, 2006, a taxpayer who reasonably expects to be liable for not more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 for the current calendar year, and who was liable for not more than $50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing of the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds $50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(d) *Time for filing returns and paying tax.* Except as otherwise provided in § 25.164a for semimonthly tax returns, the brewer shall file the tax return, Form 5000.24, for each return period, and make remittance as required by this section, not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday, except as otherwise provided in § 25.164a(c).

(e) *Timely filing.* (1) When the brewer sends the semimonthly or quarterly tax return, Form 5000.24, by U.S. mail, in accordance with the instructions on the form, as required by this section, with remittance as provided for in this section, or without remittance as provided for in § 25.165, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed is considered the date of delivery of the return and the date of delivery of the remittance, if enclosed with the return. When the postmark on the cover is illegible, the burden is on the brewer to prove when the postmark was made.

(2) When the brewer sends the semimonthly or quarterly return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail be treated as the date of delivery of the semimonthly or quarterly return and of the remittance, if enclosed with the return.

(Approved by the Office of Management and Budget under control number 1512–0467)

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–246, 52 FR 668, Jan. 8, 1987; T.D. ATF–251, 52 FR 19314, May 22, 1987, T.D. ATF–365, 60 FR 33669, June 28, 1995; T.D. TTB–41, 71 FR 5603, Feb. 2, 2006]

### § 25.164a Special September rule for taxes due by semimonthly return.

(a) *Division of second semimonthly period*—(1) *General.* Except as otherwise

provided in paragraph (a)(2) of this section, the second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The brewer shall file a return, Form 5000.24, and make remittance, for the period September 16–26, no later than September 29. The brewer shall file a return on Form 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(2) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 25.165, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The brewer shall file a return on Form 5000.24, and make remittance, for the period September 16–25, no later than September 28. The brewer shall file a return on Form 5000.24, and make remittance, for the period September 26–30, no later than October 14.

(b) *Amount of payment: Safe harbor rule.* (1) Taxpayers are considered to have met the requirements of paragraph (a)(1) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(2) Taxpayers are considered to have met the requirements of paragraph (a)(2) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(c) *Last day for payment.* If the required due date for taxpayment for the periods September 16–25 or September 16–26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(d) *Example. Payment of tax for the month of September*—(1) *Facts.* X, a brewer required to pay taxes by electronic fund transfer, incurred tax liability in the amount of $30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of $45,000, and for the period September 27–30, X incurred tax liability in the amount of $2,000.

(2) *Payment requirement.* X's payment of tax in the amount of $30,000 for the first semimonthly period of September is due no later than September 29 (§ 25.164(d)). X's payment of tax for the period September 16–26 is also due no later than September 29 (§ 25.164a(a)(1)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16–26 (§ 25.164a(b)). Under the safe harbor rule, X's payment of tax must equal $21,990.00, 11/15ths of the tax liability incurred during the first semimonthly period of September. Additionally, X's payment of tax in the amount of $2,000 for the period September 27–30 must be paid no later than October 14 (§ 25.164a(a)(1)). X must also pay the underpayment of tax, $23,010.00, for the period September 16–26, no later than October 14 (§ 25.164a(b)).

[T.D. ATF–365, 60 FR 33669, June 28, 1995, as amended by T.D. TTB–41, 71 FR 5604, Feb. 2, 2006]

### § 25.165 Payment of tax by electronic fund transfer.

(a) *Eligible brewers.* (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall use a commerical bank in making payment by electronic fund transfer (EFT) of beer taxes during the succeeding calendar year. Payment of beer taxes by cash, check, or money order, as described in § 25.163, is not authorized for a taxpayer who is required by this section to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable removals, determined in

accordance with § 25.159, and importations (including beer brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(3) A taxpayer who is required by this section to make remittances by EFT shall make a separate EFT remittance and file a separate return, Form 5000.24, for each brewery from which beer is removed upon determination of tax.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, during the previous calendar year, shall notify, in writing the appropriate TTB officer. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer's bank to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account by no later than the close of business on the last day for filing the return, prescribed in §§ 25.164 or 25.175. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in beer taxes during the preceding calendar year, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 25.164. Upon filing the first return on which the taxpayer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the taxpayer shall notify the appropriate TTB officer by attaching a written notification to Form 5000.24, stating that no taxes are due by EFT because the tax liability during the preceding calendar year was less than five million dollars, and that the remittance will be filed with the tax return.

(c) *Remittance.* (1) Each taxpayer shall show on the return, Form 5000.24, information about remitting the tax for that return by EFT and shall file the return with TTB, in accordance with the instructions on Form 5000.24.

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer shall be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, any transfer data record furnished to the taxpayer, through normal banking procedures, will serve as the record of payment, and will be retained as part of required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer a TTB Procedure entitled ''Payment of Tax by Electronic Fund Transfer.'' This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–245, 52 FR 532, Jan. 7, 1987; T.D. ATF–251, 52 FR 19314, May 22, 1987; T.D. ATF–262, 52 FR 47560, Dec. 15, 1987; T.D. ATF–437, 66 FR 5479, Jan. 19, 2001; T.D. ATF–459, 66 FR 38550, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002]

## § 25.166 Payment of reduced rate of tax.

(a) *By return, Form 5000.24.* A brewer who is eligible to pay the reduced rate of tax on beer may, upon filing the notice required by § 25.167, pay the reduced rate of tax on beer by return for deferred payment of tax as provided in § 25.164 or by prepayment return as provided in § 25.175. Payment of reduced rate of tax on beer by return, Form 5000.24, may commence with any tax return filed during a calendar year and will continue until the brewer has taxpaid 60,000 barrels of beer at the lower rate of tax, or taxpaid the number of barrels of beer apportioned under § 25.167(b)(3) for that calendar year.

(b) *By claim for refund of tax.* A brewer, eligible to pay the reduced rate of tax on beer during a calendar year, but who has not paid the reduced rate of tax by return during that year, may file a claim, Form 2635, (5620.8) for refund of tax excessively paid on beer during that year. Claims for refund of tax will be filed as provided in § 25.285.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF–251, 52 FR 19313, May 22, 1987; T.D. TTB–41, 71 FR 5604, Feb. 2, 2006]

## § 25.167 Notice of brewer to pay reduced rate of tax.

(a) *Requirement to file notice.* Every brewer who desires to pay the reduced rate of tax on beer authorized by 26 U.S.C. 5051(a)(2) by tax return, Form 5000.24, shall prepare a notice containing the information required by paragraph (b) of this section. The brewer shall file this notice with the appropriate TTB officer for the first return period (or prepayment return) during which the brewer pays tax on beer at the reduced rate. The brewer shall file the notice each year in which payment of the reduced rate of tax on beer is made by return.

(b) *Information to be furnished.* Each notice described in paragraph (a) of this section will contain the following information:

(1) A statement that the brewer will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed.

(2) A statement that the brewer is not a member of a controlled group of brewers, or if the brewer is a member of a controlled group of brewers, a statement that the controlled group will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed.

(3) If the brewer operates more than one brewery, a statement of the locations of all the breweries and a statement of how the 60,000 barrel limitation for the reduced rate of tax will be apportioned among the breweries. If the brewer is a member of a controlled group of brewers, a statement of the names and locations of all other brewers in the group and a statement of how the 60,000 barrels limitation will be apportioned among the brewers in the group.

(c) *Perjury statement.* Each notice described in this section will be executed by the brewer under penalties of perjury as defined in § 25.11.

(Act of Aug. 16, 1954, 68A Stat. 749, as amended (26 U.S.C. 6065); sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

### § 25.168 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701–12) of the taxpayer who has been assigned the number will be shown on each return on Form 5000.24, filed under this part. Failure of the taxpayer to include the employer identification number on Form 5000.24 may result in imposition of the penalty specified in § 70.113 of this chapter. A brewer shall apply for an employer identification number on IRS Form SS–4 as provided in §§ 25.122 and 25.123.

(Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

PREPAYMENT OF TAX

### § 25.173 Brewer in default.

(a) When a remittance in payment of taxes on beer is not paid upon presentment of check or money order tendered, or when the brewer is otherwise in default in payment of tax under § 25.164, beer may not be removed for consumption or sale or taken from the brewery for consumption or sale until the tax has been prepaid as provided in § 25.175. The brewer shall continue to prepay while in default and thereafter until the appropriate TTB officer finds the revenue will not be jeopardized by deferred payment of tax as provided in § 25.164.

(b) Any remittance made while the brewer is required to prepay under this section will be in cash or in the form of a certified, cashier's or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the law of any State, Territory, or possession of the United States, or in the form of a money order as provided in § 70.61 of this chapter (payment by check or money order), or will be made in the form of an electronic fund transfer as provided by §§ 25.164 and 25.165.

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF–251, 52 FR 19313, May 22, 1987; T.D. ATF–301, 55 FR 47605, Nov. 14, 1990]

### § 25.174 Bond not sufficient.

When the penal sum of the brewer's bond is in less than the maximum amount, the brewer shall prepay the tax on any withdrawal which would cause the outstanding liability for tax to exceed the limits of coverage of the bond. Prepayments will be made in accordance with § 25.175.

### § 25.175 Prepayment of tax.

(a) *General.* When a brewer is required to prepay tax under § 25.173, or if the penal sum of the bond, Form 5130.22, is insufficient for deferral of payment of tax on beer to be removed for consumption or sale, or if a brewer is not entitled to defer the tax under the provisions of this subpart, the brewer shall prepay the tax before any beer is removed for consumption or sale, or taken out of the brewery for removal for consumption or sale.

(b) *Method of prepayment.* (1) Prepayment will be made by forwarding a tax return, Form 5000.24, with remittance, covering the tax on beer.

(2) If a brewer is required by § 25.165 to make payment of tax by electronic fund transfer, the brewer shall prepay the tax before any beer can be removed for consumption or sale by completing the return and by forwarding it, in accordance with the instructions on the form. At the same time, the brewer shall direct his or her bank to make remittance by EFT.

(3) For the purpose of complying with this section, the term *forwarding* means depositing in the U.S. mail, properly addressed in accordance with the instructions on the form.

(Act of Aug. 16, 1954, 68A Stat. 777, as amended (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF–251, 52 FR 19313, May 22, 1987]

FAILURE TO PAY TAX

### § 25.177 Evasion of or failure to pay tax; failure to file a tax return.

Sections 5671, 5673, 5684, 6651, and 6656 of Title 26 United States Code provide penalties for evasion or failure to pay

tax on beer or for failure to file a tax return.

(Act of Aug. 16, 1954, 68A Stat. 821, as amended, 826, as amended (26 U.S.C. 6651, 6656); sec. 201, Pub. L. 85–859, 72 Stat. 1408, 1410, as amended (26 U.S.C. 5671, 5673, 5684))

## Subpart L—Removals Without Payment of Tax

TRANSFER TO ANOTHER BREWERY OF SAME OWNERSHIP

### § 25.181 Eligibility.

A brewer may remove beer without payment of tax for transfer to any other brewery of the same ownership. These removals include a removal from a brewery owned by one corporation to a brewery owned by another corporation if (a) one corporation owns the controlling interest in the other corporation, or (b) the controlling interest in each corporation is owned by the same person. Beer removed under this section may, while in transit, be reconsigned to another brewery of the same ownership or be returned to the shipping brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

### § 25.182 Kinds of containers.

A brewer may transfer beer without payment of tax from one brewery to another brewery belonging to the same brewer (a) in the brewer's packages or (b) in bulk containers, subject to limitations and conditions as may be imposed by the appropriate TTB officer. The brewer shall mark, brand or label containers as provided by subpart J of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

### § 25.183 Determination of quantity transferred.

The shipping brewer shall determine the quantity of beer shipped at the time of removal from the consignor brewery, and the receiving brewer shall determine the quantity of beer received at the time of receipt at the consignee brewery. The brewer shall equip the consignor and consignee breweries with suitable measuring devices to allow accurate determination of the quantities of beer to be shipped and received in bulk conveyances.

(Sec 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

### § 25.184 Losses in transit.

(a) *Liability for losses.* The brewer is liable under the bond of the brewery to which beer is transferred for the tax on beer lost in transit. If the brewer reconsigns beer while in transit or returns beer to the shipping brewery, the brewer is liable under the bond of the brewery to which the beer is reconsigned or returned for the tax on beer lost in transit.

(b) *Losses allowable without claim.* If loss of beer being transferred does not exceed two percent of the quantity shipped, the brewer is not required to file a report of loss or a claim for allowance of the loss if there are no circumstances indicating that the beer, or any portion of the beer lost, was stolen or otherwise diverted to an unlawful purpose.

(c) *Losses requiring claim.* If loss of beer during transit exceeds two percent of the quantity shipped, the brewer shall submit a claim under penalties of perjury for remission of the tax on the entire loss. The brewer shall prepare and submit the claim as provided in § 25.286.

(d) *Losses requiring immediate report.* The brewer shall report to the appropriate TTB officer a loss by fire, theft, casualty or any other unusual loss as soon as it becomes known.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended 1389 (26 U.S.C. 5056, 5414))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.185 Mingling.

Beer transferred without payment of tax from one brewery to another brewery belonging to the same brewer may be mingled with beer of the receiving brewery. The brewer may handle the beer transferred in accordance with the requirements of this part relating to beer produced in the receiving brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

### § 25.186 Record of beer transferred.

(a) *Preparation of invoice.* When beer is transferred between breweries without payment of tax, the shipping brewer shall prepare a serially numbered invoice or commercial record, in duplicate, covering the transfer. The invoice will be marked ''transfer without payment of tax'' and will contain the following information:

(1) Name and address of shipping brewer;

(2) Date of shipment;

(3) Name and address of receiving brewer;

(4) For cases, the number and size of cases and the total barrels;

(5) For kegs, the number and size of kegs and the total barrels;

(6) For shipments in bulk containers, the type of container, identity of the container and the total barrels.

(b) *Reconsignment of beer.* When beer is reconsigned in transit to another brewery of the same ownership, the shipping brewer shall (1) prepare a new invoice showing reconsignment to another brewery and shall void all copies of the original invoice, or (2) shall mark all copies of the original invoice with the words ''Reconsigned to _____,'' followed by the name and address of the brewery to which the beer is reconsigned.

(c) *Disposition of invoice.* On shipment of the beer, the shipping brewer shall send the original copy of the invoice to the receiving brewer, and shall retain the other copy for the brewery records. On receipt of the beer, the receiving brewer (including a brewer to whom beer was returned or reconsigned in transit) shall note on the invoice any discrepancies in the beer received, and retain the invoice in the brewery records.

(d) *Preparation of records and report.* The shipping brewer shall use the invoice showing beer removed to another brewery without payment of tax in preparing daily records under § 25.292 and in preparing the Brewer's Report of Operations, Form 5130.9. The receiving brewer (including a brewer to whom beer was returned or reconsigned in transit) shall use the invoice showing beer received from another brewery without payment of tax in preparing daily records under § 25.292 and in preparing the Brewer's Report of Operations, Form 5130.9.

(Sec. 201. Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993]

## REMOVAL OF BEER UNFIT FOR BEVERAGE USE

### § 25.191 General.

A brewer may remove sour or damaged beer, or beer which the brewer has deliberately rendered unfit for beverage use, from the brewery without payment of tax for use in manufacturing. Unfit beer may be removed under this section for use as distilling material at alcohol fuel plants qualified under subpart Y of part 19 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 25.192 Removal of sour or damaged beer.

(a) *Containers.* The brewer shall remove sour or damaged beer (1) in casks or other packages, containing not less than one barrel each and unlike those ordinarily used for packaging beer, or (2) in tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of a vessel. The brewer shall mark the nature of the contents on each container.

(b) *Beer meter.* The brewer shall remove sour or damaged beer without passing it through the meter (if any) or racking machine.

(c) *Records and reports.* The brewer shall record the removal of sour or damaged beer in daily records under § 25.292 and on the Brewer's Report of Operations, Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5033))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993]

## REMOVALS FOR ANALYSIS, RESEARCH, DEVELOPMENT OR TESTING

### § 25.195 Removals for analysis.

A brewer may remove beer, without payment of tax, to a laboratory for analysis to determine the character or

quality of the product. Beer may be removed for analysis in packages or in bulk containers. The brewer shall record beer removed for analysis in daily records under § 25.292 and on the Brewer's Report of Operations, Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993]

### § 25.196 Removals for research, development or testing.

(a) A brewer may remove beer, without payment of tax, for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations. Beer may be removed for research, development or testing in packages or in bulk containers.

(b) The brewer shall mark each barrel, keg, case, or shipping container with the name and address of the brewer and of the consignee, the identity of the product, and the quantity of the product. If necessary to protect the revenue, the appropriate TTB officer may require a brewer to mark each container with the words ''Not for Consumption or Sale.'' If beer is removed in a bulk conveyance, the brewer shall place the marks on the route board of the conveyance.

(c) The brewer shall record beer removed for research, development, or testing in daily records under § 25.292 and on the Brewer's Report of Operations, Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993]

## REMOVAL OF BEER TO A CONTIGUOUS DISTILLED SPIRITS PLANT

### § 25.201 Removal by pipeline.

A brewer may remove beer from the brewery, without payment of tax, by pipeline to the bonded premises of a distilled spirits plant which is authorized to produce distilled spirits and which is located contiguous to the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended, 1389, as amended (26 U.S.C. 5222, 5412))

## EXPORTATION

### § 25.203 Exportation without payment of tax.

A brewer may remove beer without payment of tax (a) for exportation, (b) for use as supplies on vessels and aircraft, or (c) for transfer to and deposit in foreign-trade zones for exportation or for storage pending exportation, in accordance with Part 28 of this chapter. Beer may be removed from a brewery in bottles, kegs, or in bulk containers.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

## BEER FOR PERSONAL OR FAMILY USE

### § 25.205 Production.

(a) Any adult may produce beer, without payment of tax, for personal or family use and not for sale. An adult is any individual who is 18 years of age or older. If the locality in which the household is located requires a greater minimum age for the sale of beer to individuals, the adult shall be that age before commencing the production of beer. This exemption does not authorize the production of beer for use contrary to State or local law.

(b) The production of beer per household, without payment of tax, for personal or family use may not exceed:

(1) 200 gallons per calendar year if there are two or more adults residing in the household, or

(2) 100 gallons per calendar year if there is only one adult residing in the household.

(c) Partnerships except as provided in § 25.207, corporations or associations may not produce beer, without payment of tax, for personal or family use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 25.206 Removal of beer.

Beer made under § 25.205 may be removed from the premises where made for personal or family use including use at organized affairs, exhibitions or competitions such as homemaker's contests, tastings or judging. Beer removed under this section may not be sold or offered for sale.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 25.207 Removal from brewery for personal or family use.

Any adult, as defined in § 25.205, who operates a brewery under this part as an individual owner or in partnership with others, may remove beer from the brewery without payment of tax for personal or family use. The amount of beer removed for each household, without payment of tax, per calendar year may not exceed 100 gallons if there is one adult residing in the household or 200 gallons if there are two or more adults residing in the household. Beer removed in excess of the above limitations will be reported as a taxable removal.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

## Subpart M—Beer Returned to Brewery

### § 25.211 Beer returned to brewery.

(a) *General.* Beer, produced in the United States, on which the brewer has paid or determined the tax may be returned to any brewery of the brewer. Upon return of the beer to the brewery, the brewer shall determine the actual quantity of beer received, expressed in barrels. For cases or bottles, the label may be used to determine the quantity. When kegs or cases containing less than the original contents are received, the brewer shall determine the actual quantity of beer by weight or by other accurate means. The brewer shall determine the balling and alcohol content of returned keg beer unless the keg is equipped with tamper-proof fittings. The quantity of beer returned may be established by weighing individual packages and subtracting package weight, or by weighing accumulated beer and subtracting tare weight of dumpsters, pallets, packages and the like.

(b) *Disposition of returned beer.* The brewer may dispose of beer returned under this subpart in any manner prescribed for beer which has never left the brewery. If returned beer is again removed for consumption or sale, tax will be determined and paid without respect to the tax which was determined or paid at the time of prior removal of the beer.

(c) *Records.* For beer returned to the brewery under this subpart, the brewer's daily records under § 25.292 will show:

(1) Date;

(2) Quantity of beer returned;

(3) If the title to the beer has passed, the name and address of the person returning the beer; and

(4) Name and address of the brewery from which the beer was removed, if different from the brewery to which returned.

(d) *Supporting records.* The records of returned beer will be supported by invoices, credit memoranda or other commercial papers, and will differentiate beween beer returned to the brewery from which removed and beer returned to a brewery different from the one from which removed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended, 1390, as amended (26 U.S.C. 5054, 5056, 5415))

### § 25.212 Beer returned to brewery from which removed.

If beer on which the tax has been determined or paid is returned to the brewery from which removed, the brewer shall take the quantity of beer as an offset or deduction against the quantity of beer removed for consumption or sale from the brewery on that business day, as provided in § 25.159

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1390, as amended (26 U.S.C. 5056, 5415))

### § 25.213 Beer returned to brewery other than that from which removed.

(a) *Refund or adjustment of tax.* If beer on which the tax has been determined or paid is returned to a brewery of the brewer other than the one from which removed, the brewer may make a claim

for refund or relief of tax or may make an adjustment to the beer tax return, for the tax on the beer returned to the brewery. The brewer may not take an offset for beer returned to the brewery other than the one from which removed. Procedures for filing claims for refund or relief of tax or for making adjustments to the beer tax return are contained in Subpart T of this part.

(b) *Notice.* A brewer need not file notice of intention to return beer to a brewery other than the one from which removed unless required by the appropriate TTB officer. When a notice is required, the brewer shall serially number each notice and execute it under penalties of perjury as defined in § 25.11. The brewer must file it with the appropriate TTB officer. The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases and the actual quantity of beer, in barrels;

(2) The name and address of the brewery from which the beer was removed;

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined; and

(4) If the title to the beer has passed, the name and address of the person returning the beer.

(c) *Return of beer.* If the brewer is required to file a notice of intention to return beer to the brewery, the brewer may bring the beer onto the brewery premises prior to filing the notice. The brewer shall segregate the returned beer from all other beer at the brewery and clearly identify it as returned beer. The returned beer will be retained intact for inspection by an appropriate TTB officer until the notice has been filed and disposition authorized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

## Subpart N—Voluntary Destruction

### § 25.221 Voluntary destruction of beer.

(a) *On brewery premises.* (1) A brewer may destroy, at the brewery, beer on which the tax has not been determined or paid.

(2) A brewer operating a tavern on brewery premises under § 25.25 may destroy taxpaid or tax-determined been stored on brewery premises, in accordance with the requirements of § 25.225.

(b) *Destruction without return to brewery.* A brewer may destroy beer on which the tax has been paid or determined at a location other than any of the breweries operated by the brewer, upon compliance with this subpart.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986; T.D. ATF–268, 53 FR 8629, Mar 16, 1988, as amended by T.D. 372, 61 FR 20724, May 8, 1996]

### § 25.222 Notice of brewer.

(a) *Beer to be destroyed.* When a brewer possesses beer which has been taxpaid or tax determined and which the brewer wishes to destroy at a location other than at any of the brewer's breweries, the brewer shall give written notice of intention to destroy the beer. The brewer must submit this notice to the appropriate TTB officer.

(b) *Execution of notice.* The brewer shall serially number each notice and execute each notice under penalties of perjury as defined in § 25.11. The brewer shall specify the date on which the beer is to be destroyed; this date may not be less than 12 days from the date the notice is mailed or delivered to the appropriate TTB officer.

(c) *Information to be furnished.* The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases, and the actual quantity of beer in barrels. When kegs containing less than the actual contents are to be destroyed, the brewer shall determine the actual content of beer by weight or by other accurate means.

(2) The date on which the beer was received for destruction.

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined.

(4) If the title of the beer has passed, the name and address of the person returning the beer.

(5) The location at which the brewer desires to destroy the beer and the reason for not returning the beer to the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.223 Destruction of beer off brewery premises.

(a) *Destruction without supervision.* A brewer may destroy beer without supervision if the appropriate TTB officer does not advise the brewer before the date specified in the notice that destruction of the beer is to be supervised.

(b) *Destruction with supervision.* The appropriate TTB officer may require that an approriate TTB officer verify the information in the notice of destruction or witness the destruction of the beer. The appropriate TTB officer may also require a delay in the destruction of the beer or, if the place of destruction is not readily accessible to an appropriate TTB officer, may require that the beer be moved to a more convenient location. In this case, the brewer may not destroy the beer except under the conditions imposed by the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

### § 25.224 Refund or adjustment of tax.

(a) *Claim for refund or relief of tax.* The tax paid by a brewer on beer produced in the United States and destroyed in accordance with this subpart may be refunded to the brewer. If the tax has not been paid, the brewer may be relieved of liability for the tax. Claims for refund or relief of tax will be filed as provided in subpart T of this part.

(b) *Adjustments to the excise tax return.* A brewer may make an adjustment (without interest) to the excise tax return, Form 5000.24, covering the tax paid on beer produced in the United States and destroyed in accordance with this subpart. Procedures for making adjustments to tax returns are contained in subpart T of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

### § 25.225 Destruction of taxpaid beer which was never removed from brewery premises.

(a) *General.* A brewer operating a taven on brewery premises under § 25.25 may destroy taxpaid or tax-determined beer which was never removed from brewery premises, in accordance with the recordkeeping requirements of paragraph (b) of this section, and with the benefit of the tax refund provisions of paragraph (c) of this section.

(b) *Recordkeeping.* (1) When taxpaid or tax-determined beer which was never removed from brewery premises is destroyed, the brewer shall prepare a record of the quantity of beer destroyed, and the reason for, date of, and method of, destruction. The brewer may prepare this record on Form 2635 (5620.8) for submission as a claim under § 25.283.

(2) When required by the appropriate TTB officer, the brewer shall notify the appropriate TTB officer prior to the intended destruction, in accordance with procedures established by the appropriate TTB officer.

(c) *Refund of tax.* After destruction is completed, the brewer may file a claim for refund or credit of tax, in accordance with § 25.283(c).

[T.D. ATF–268, 53 FR 8629, Mar 16, 1988]

## Subpart O—Beer Purchased From Another Brewer

### § 25.231 Finished beer.

(a) A brewer may obtain beer in barrels and kegs, finished and ready for sale from another brewer. The purchasing brewer may furnish the producing brewer barrels and kegs marked with the purchasing brewer's name and

location. The producing brewer shall pay the tax as provided in subpart K of this part.

(b) A brewer may not purchase tax-paid or tax determined beer from another brewer in bottles or cans which bear the name and address of the purchasing brewer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5413))

### § 25.232 Basic permit.

A brewer who engages in the business of purchasing beer for resale is required to possess a wholesaler's or importer's basis permit under the provisions of section 3(c) of the Federal Alcohol Administration Act and Part 1 of this chapter.

## Subpart P—Cereal Beverage

### § 25.241 Production.

Brewers may produce cereal beverage and remove it without payment of tax from the brewery. The method of production shall insure that the alcohol content of the cereal beverage will not increase while in the original container after removal from the brewery. The brewer shall keep cereal beverage separate from beer, and shall measure the quantity of cereal beverage transferred for packaging in accordance with § 25.41.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

### § 25.242 Markings.

(a) *Designation.* When bottled or packaged, cereal beverage may be designated ''Cereal Beverage,'' ''Malt Beverage,'' ''Near Beer,'' or other distinctive name. If designated ''Near Beer,'' those words will be printed identically in the same size or style of type, in the same color of ink, and on the same background.

(b) *Barrels and kegs.* A brewer may remove cereal beverage in barrels and kegs if the sides are durably painted at each end with a white stripe not less than 4 inches in width and the heads are painted in a solid color, with conspicuous lettering in a contrasting color reading ''Nontaxable under section 5051 I.R.C.'' The brewer shall also legibly mark the brewer's name or trade name and the address on the container.

(c) *Bottles.* Bottle labels shall show the name or trade name and address of the brewer, the distinctive name of the beverage, if any, and the legend ''Nontaxable under section 5051 I.R.C.'' Other information which is not inconsistent with the requirements of this section may be shown on bottle lablels.

(d) *Cases.* The brewer shall mark cases or shipping containers to show the nature of the product and the name or trade name and address of the brewer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

## Subpart Q—Removal of Brewer's Yeast and Other Articles

### § 25.251 Authorized removals.

(a) *Brewer's yeast.* A brewer may remove brewer's yeast, in liquid or solid form containing not less than 10 percent solids (as determined by the methods of analysis of the American Society of Brewing Chemists), from the brewery in barrels, tank trucks, in other suitable containers, or by pipeline.

(b) *Containers.* Containers will bear a label giving the name and location of the brewery and including the words ''Brewer's Yeast.''

(c) *Pipeline.* If brewer's yeast is removed by pipeline, the pipeline will be described in the Brewer's Notice, Form 5130.10. The premises where the brewer's yeast is received is subject to inspection by an appropriate TTB officer during ordinary business hours.

(d) *Other articles.* A brewer may remove malt, malt syrup, wort, and other articles from the brewery.

(e) *Methods of Analysis of the American Society of Brewing Chemists, Seventh Edition (1976).* In reference to paragraph (a) of this section, this incorporation by reference was approved by the Director of the Federal Register on March 23, 1981, and is available for inspection or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/*

*ibr_locations.html.* This publication is available from the American Society of Brewing Chemists, 40 Pilot Knob Road, St. Paul, Minnesota 55121.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

[ T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended at 69 FR 18803, Apr. 9, 2004]

### § 25.252 Records.

(a) *Production.* The brewer shall keep records of the production of malt syrup, wort, and other articles which are removed from the brewery. The record shall include the quantities and kinds of materials used, and in the case of wort and concentrated wort, the balling.

(b) *Removals.* The brewer shall keep records of removals of brewer's yeast, malt and other articles from the brewery. The record shall include the quantity and date of removal of each lot, and the name and address of the consignee. These records may consist of invoices or shipping documents.

(c) *Inspection.* All records under this section shall be available for inspection at the brewery by an appropriate TTB officer during normal business hours.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

## Subpart R—Beer Concentrate

### § 25.261 General.

(a) *Authorized processes.* A brewer may, in accordance with this subpart—

(1) Produce concentrate from beer,

(2) Reconstitute beer from concentrate,

(3) Transfer concentrate from one brewery to another brewery of the same ownership, and

(4) Remove concentrate without payment of tax for exportation, or for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation in accordance with Part 28 of this chapter.

(b) *Brewery treatment of concentrate.* Beer reconstituted from concentrate in accordance with this subpart shall (except with respect to the additional labeling of reconstituted beer under § 25.263) be treated the same as beer which has not been concentrated and reconstituted.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3830, Jan. 27, 2004]

### § 25.262 Restrictions and conditions on processes of concentration and reconstitution.

(a) *Conditions on concentration.* A brewer may not employ any process of concentration which separates alcohol spirits from any fermented substance.

(b) *Conditions on reconstitution*—(1) The process of reconstitution of beer will consist of the addition to the concentrate of carbon dioxide and water only.

(2) A brewer may not employ any process of concentration or reconstitution unless the beer upon reconstitution will, without the addition of any substance other than carbon dioxide and water, possess the taste, aroma, color, and other characteristics of beer which has not been concentrated.

(3) The process of reconstitution shall provide for the addition of sufficient water to restore the concentrate to a volume not less than, and an alcohol content not greater than, that of the beer used to produce the concentrate.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1315, as amended, 1388, as amended (26 U.S.C. 5002, 5401))

### § 25.263 Production of concentrate and reconstitution of beer.

(a) *Operations at brewery.* A brewer may concentrate beer or reconstitute beer only at a brewery.

(b) *Marking of containers.* Containers of concentrate transferred to other breweries of the same ownership, and containers of concentrate removed for export shall be marked, branded and labeled in the same manner as prescribed for containers of beer in subpart J of this part. All containers shall be identified as containers of beer concentrate.

(c) *Mingling with beer.* A brewer may not mingle concentrate with unconcentrated beer. A brewer may mingle reconstituted beer with other beer at the brewery.

(d) *Additional labeling.* Barrels, kegs, and bottles containing beer produced from concentrate will show by label or otherwise the statement ''PRODUCED FROM . . . CONCENTRATE,'' the blank to be filled in with the appropriate class designation of the beer (beer, lager, ale, stout, etc.) from which the concentrate was made. The statement will be conspicuous and readily legible and, in the case of bottled beer, will appear in direct conjunction with, and as a part of, the class designation. All parts of the class designation will appear in lettering of substantially the same size and kind.

(e) *Records and reports.* Brewers producing concentrate and brewers reconstituting beer from concentrate shall keep the records and reports required by subpart U of this part.

### § 25.264 Transfer between breweries.

(a) *Authorized transfers.* A brewer may remove from the brewery, without payment of tax, concentrate produced from beer for transfer to any other brewery of the same ownership (within the limits of ownership described in § 25.181).

(b) *Record of concentrate transferred.* When transferring concentrate between breweries, the shipping brewer shall prepare for each conveyance a serially numbered invoice or commercial record covering the transfer. The invoice will be clearly marked to indicate that concentrate produced from beer is being transferred. The invoice will contain the following information:

(1) Name and address of shipping brewer;

(2) Date of shipment;

(3) Name and address of receiving brewer;

(4) The number of containers transferred, the balling, percentage of alcohol by volume, and the total barrels of concentrate; and

(5) A description of the beer from which the concentrate was produced including the number of barrels, balling, and percentage of alcohol by volume.

(c) *Disposition of invoice.* On shipment of the concentrate, the shipping brewer shall send the original copy of the invoice to the receiving brewer and shall retain a copy for the brewery records. On receipt of the concentrate, the receiving brewer shall note on the invoice any discrepancies in the concentrate received and retain the invoice in the brewery records.

## Subpart S—Pilot Brewing Plants

### § 25.271 General.

(a) *Establishment.* A person may establish and operate a pilot brewing plant off the brewery premises for research, analytical, experimental, or developmental purposes relating to beer or brewery operations. Pilot brewing plants will be established as provided in this subpart.

(b) *Authorized removals.* Beer may be removed from a pilot brewing plant only for analysis or organoleptic examination.

(c) *Transfers between brewery and pilot brewing plant.* Subject to subpart L of this part, beer may be transferred to a pilot brewing plant from a brewery of the same ownership, and beer may be transferred without payment of tax from a pilot brewing plant to a brewery of the same ownership.

(d) *Other regulations applicable.* The provisions of subparts A, B, F, I, K, and of §§ 25.63, 25.64, and 25.21 are applicable to pilot brewing plants established under this subpart. Also, the provisions of §§ 25.72–25.75, 25.77, 25.92 and 25.94–25.105 relating to bonds, and consents of surety, and of §§ 25.131–25.134 are applicable to bonds and consents of surety given, and to changes in the proprietorship, location, and premises of pilot brewing plants established under this subpart.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

### § 25.272 Application.

(a) *Form of application.* Any person desiring to establish a pilot brewing plant under the subpart shall file an application with the appropriate TTB officer. The application will be in writing and will include the following:

(1) Name and address of the applicant;

(2) Description of the premises and equipment to be used in the operations;

(3) Nature, purpose, and extent of the operations; and

(4) A statement that the applicant agrees to comply with all provisions of this part applicable to the operations to be conducted.

(b) *Additional information.* The appropriate TTB officer may at any time before or after approval of an application, require the submission of additional information necessary for administration of this part or for protection of the revenue.

(c) *Authorization of operations.* The appropriate TTB officer may authorize the operation of a pilot brewing plant if it is determined that the plant will be operated solely for one or more of the purposes specified in § 25.271, and that operations will not jeopardize the revenue.

(d) *Withdrawal of authorization.* The appropriate TTB officer may withdraw authorization to operate a pilot brewing plant if in his or her judgment, the revenue would be jeopardized by the operations of the plant.

(e) *Commencement of operations.* A person may not begin operation of a pilot brewing plant until the appropriate TTB officer has approved the application required by this section.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

### § 25.273 Action on application.

If the appropriate TTB officer approves the application for a pilot brewing plant, he or she will note approval on the application and forward a copy to the applicant. The applicant must file the copy of the approved application at the premises, available for inspection by an appropriate TTB officer.

[T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.274 Bond.

(a) *Requirement.* Any person requesting authorization to establish a pilot brewing plant under this subpart shall execute and file a brewer's bond, Form 5130.22. A person may not begin operation of a pilot brewing plant until receiving notice from the appropriate TTB officer of the approval of the bond. Operations may continue only as long as an approved bond is in effect.

(b) *Penal sum.* The penal sum of a bond covering the premises of a pilot brewing plant will be an amount equal to the potential tax liability of the maximum quantity of beer on hand, in transit to the plant, and unaccounted for at any one time, computed by multiplying the quantity of beer in barrels by the rate of tax in 26 U.S.C. 5051. The penal sum of the bond (or total penal sum if original and strengthening bonds are filed) may not exceed $50,000 or be less than $500.

(c) *Conditions of bonds.* The bond will be conditioned that the operator of the pilot brewing plant shall pay, or cause to be paid, to the United States according to the laws of the United States and the provisions of this part, the taxes, including penalties and interest for which the operator shall become liable, on all beer brewed, produced, or received on the premises.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

### § 25.275 Special tax.

The special tax imposed on a brewer by 26 U.S.C. 5091 shall be paid in accordance with subpart I of this part.

### § 25.276 Operations and records.

(a) *Commencement of operations.* A person may commence operation of a pilot brewing plant upon receipt of the approved application and bond.

(b) *Reports.* The operator of a pilot brewing plant is not required to file the Brewer's Report of Operations, Form 5130.9.

(c) *Records.* The operator of a pilot brewing plant must maintain records which, in the opinion of the appropriate TTB officer, are appropriate to the type of operation being conducted. These records will include information sufficient to account for the receipt, production, and disposition of all beer received or produced on the premises, and the receipt (and disposition, if removed) of all brewing materials. These records will be available for inspection by an appropriate TTB officer.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40357, July 28, 1993; T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.277 Discontinuance of operations.

When operations of a pilot brewing plant are to be discontinued, the operator shall notify the appropriate TTB officer stating the purpose of the notice and giving the date of discontinuance. When operations have been completed and all beer at the premises has been disposed of and accounted for, the appropriate TTB officer will note approval on the notice and return a copy to the operator.

## Subpart T—Refund or Adjustment of Tax or Relief From Liability

### § 25.281 General.

(a) *Reasons for refund or adjustment of tax or relief from liability.* The tax paid by a brewer on beer produced in the United States may be refunded, or adjusted on the tax return (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax on:

(1) Beer returned to any brewery of the brewer subject to the conditions outlined in subpart M of this part;

(2) Beer voluntarily destroyed by the brewer subject to the conditions outlined in subpart N of this part;

(3) Beer lost by fire, theft, casualty, or act of God subject to the conditions outlined in § 25.282.

(b) *Refund of beer tax excessively paid.* A brewer may be refunded the tax excessively paid on beer subject to the conditions outlined in § 25.285.

(c) *Rate of tax.* Brewers who have filed the notice required by § 25.167 and who have paid the tax on beer at the reduced rate of tax shall make claims for refund or relief of tax, or adjustments on the tax return, based upon the lower rate of tax. However, a brewer may make adjustments or claims for refund or relief of tax based on the higher rate of tax if the brewer can establish to the satisfaction of the appropriate TTB officer that the tax was paid or determined at the higher rate of tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

### § 25.282 Beer lost by fire, theft, casualty, or act of God.

(a) *General.* The tax paid by any brewer on beer produced in the United States may be adjusted (without interest) on the excise tax return, may be refunded or credited (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax if, before transfer of title to the beer to any other person, the beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. The tax liability on excessive losses of beer from transfer between breweries of the same ownership may be remitted as provided in § 25.286.

(b) *Unmerchantable beer.* When beer is rendered unmerchantable by fire, casualty, or act of God, refund, credit or adjustment of tax, or relief from liability of tax will not be allowed unless the brewer proves to the satisfaction of the appropriate TTB officer that the beer cannot be salvaged and returned to the market for consumption or sale.

(c) *Beer lost or destroyed.* When beer is lost or destroyed, whether by theft or otherwise, the appropriate TTB officer may require the brewer to file a claim for relief from the tax and to submit proof as to the cause of the loss.

(d) *Beer lost by theft.* When it appears that beer was lost by theft, the tax shall be collected unless the brewer proves to the satisfaction of the appropriate TTB officer that the theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(e) *Notification of appropriate TTB officer.* (1) A brewer who sustains a loss of beer before transfer of title of the beer to another person and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability of tax, must, on learning of the loss of beer, immediately notify in writing the appropriate TTB officer of the nature, cause, and extent of the loss, and the place where the loss occurred. Statements of witnesses or other supporting documents must be furnished if available.

(2) A brewer possessing unmerchantable beer and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability must notify in

writing the appropriate TTB officer, of the circumstances by which the beer became unmerchantable, and must state why the beer cannot be salvaged and returned to the market for consumption or sale.

(f) *Additional information.* The appropriate TTB officer may require the brewer to submit additional evidence necessary to verify the tax adjustment or for use in connection with a claim.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.283 Claims for refund of tax.

(a) *Beer returned to brewery or voluntarily destroyed at a location other than a brewery.* Claims for refund of tax on beer returned to a brewery under the provisions of § 25.213 or voluntarily destroyed at a location other than a brewery shall include:

(1) The name and address of the brewer filing the claim, the address of the brewery from which the beer was removed, and the address of the brewery to which the beer was returned, as applicable;

(2) The quantity of beer covered by the claim and the rate(s) of tax at which the beer was tax paid or determined;

(3) The amount of tax for which the claim is filed;

(4) The reason for return or voluntary destruction of the beer and the related facts;

(5) Whether the brewer is indemnified by insurance or otherwise in respect of the tax, and if so, the nature of the indemnification;

(6) The claimant's reasons for believing the claim should be allowed;

(7) The date the beer was returned to the brewery, if applicable;

(8) The name of the person from whom the beer was received;

(9) A statement that the tax has been fully paid or determined; and

(10) A reference to the notice (if required) filed under §§ 25.213 or 25.222.

(b) *Beer lost, destroyed, or rendered unmerchantable.* Claims for refund of tax on beer lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God shall contain:

(1) Information required by paragraphs (a)(1), (2), (3), (5), and (6) of this section;

(2) A statement of the circumstances surrounding the loss;

(3) When applicable, the reason the beer rendered unmerchantable cannot be returned to the market for consumption or sale;

(4) Date of the loss, and if lost in transit, the name of the carrier;

(5) A reference incorporating the notice required by § 25.282; and

(6) When possible, affidavits of persons having knowledge of the loss, unless the affidavits are contained in the notice given under § 25.282.

(c) *Voluntary destruction of taxpaid beer which was never removed from brewery premises.* Claims for refund or credit of tax on beer voluntarily destroyed under the provisions of § 25.225, shall include:

(1) Information required by paragraphs (a)(1), (a)(2), (a)(3), (a)(5), and (a)(9) of this section; and

(2) The information contained in the record required by § 25.225(b).

(d) *Additional evidence.* The appropriate TTB officer may require the submission of additional evidence in support of any claim filed under this section.

(e) *Filing of claim.* Claim for refund of tax shall be filed on Form 2635 (5620.8). Claims shall be filed within 6 months after the date of the return, loss, destruction, or rendering unmerchantable. Claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF–251, 52 FR 19314, May 22, 1987; T.D. ATF–268, 53 FR 8629, Mar 16, 1988; T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.284 Adjustment of tax.

(a) *Adjustment of tax in lieu of refund.* In lieu of filing a claim for refund of tax as provided in § 25.283, a brewer may make an adjustment (without interest) to the excise tax return, Form 5000.24, for the amount of tax paid on

beer returned to the brewery, voluntarily destroyed, lost, destroyed, or rendered unmerchantable.

(b) *Beer returned to brewery other than from which removed.* An adjustment may be made on the excise tax return for the amount of tax paid on beer returned to the brewery under § 25.213. The adjustment will be made on the tax return filed for the brewery to which the beer was returned. The adjustment may not be made prior to the return of beer to the brewery. If the brewer is required to file a notice under § 25.213, the adjustment may not be made until the appropriate TTB officer authorizes disposition of the beer.

(c) *Beer voluntarily destroyed.* An adjustment may be made on the excise tax return for the amount of tax paid on beer voluntarily destroyed under subpart N of this part. The adjustment will be made on the tax return filed for the brewery from which the beer was removed. The adjustment may not be made prior to the destruction of the beer.

(d) *Beer lost, destroyed or rendered unmerchantable.* An adjustment may be made on the excise tax return for the amount of tax paid on beer lost, destroyed, or rendered unmerchantable under § 25.282. The adjustment will be made on the tax return filed for the brewery from which the beer was removed. A brewer may not make an adjustment prior to notification required under § 25.282(e). When beer appears to have been lost due to theft, the brewer may not make an adjustment to the tax return until establishing to the satisfaction of the appropriate TTB officer that the theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(e) *Condition of adjustments.* (1) All adjustments will be made within 6 months of the return, destruction, loss, or rendering unmerchantable of the beer.

(2) Adjustment of the tax paid will be made without interest.

(3) An adjustment may not be taken if the brewer was indemnified by insurance or otherwise in respect of the tax.

(f) *Records.* When brewers make adjustments on the excise tax return in lieu of filing a claim, they shall keep the following records;

(1) For beer returned to the brewery or voluntarily destroyed, the records required by §§ 25.283(a)(1), (2), (4), (5), (7), (8), and (10).

(2) For beer lost, destroyed, or rendered unmerchantable, the records required by § 25.283 (a)(1), (2), (5), (b) (2), (3), (4), (5), and (6).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5480, Jan. 19, 2001; T.D. ATF–437a, 66 FR 17809, Apr. 4, 2001]

### § 25.285 Refund of beer tax excessively paid.

(a) *Eligibility.* A brewer who, under the provisions of § 25.152, is eligible to pay the reduced rate of tax on beer prescribed by 26 U.S.C. 5051 (a)(2), but who did not pay tax at the reduced rate by return, Form 5000.24, during the calendar year for which the brewer was eligible, may file a claim for refund of tax excessively paid on beer for that year. The brewer shall file the claim for refund to tax on Form 2635 (5620.8) within the period of limitation prescribed in 26 U.S.C. 6511(a). For rules relating to the period of limitation on filing claims, see §§ 70.82 and 70.83.

(b) *Calculation of refund.* The brewer shall file the claim based on the quantity of beer eligible to be taxpaid at the lower rate of tax, but which was paid at the higher rate of tax, subject to a maximum of 60,000 barrels of beer per calendar year or the limitation as determined in § 25.152(d). The brewer shall exclude from the claim the quantity of beer removed that calendar year on which a credit or refund at the higher rate of tax has been taken.

(c) *Information to be furnished.* Each claim for refund of tax filed under this section shall include the following information:

(1) Name and address of the brewer.

(2) Quantity of beer covered by the claim as determined in paragraph (b) of this section.

(3) Amount of tax paid in excess.

(4) A statement of the exact number of barrels of beer which the brewer produced during the calendar year.

(5) A statement that the brewer is not a member of a controlled group of brewers (as defined in § 25.152(b)(1) or, if the brewer is a member of a controlled group of brewers, a list of the names and addresses of all the members of the controlled group of brewers and a statement of the combined number of barrels of beer produced by all members of the controlled group in the calendar year.

(6) If the brewer is a member of a controlled group of brewers, a statement of how the 60,000 barrel limitation for the reduced rate of tax is to be apportioned among the members of the controlled group of brewers.

(Act of August 16, 1954, 68A Stat. 791, as amended (26 U.S.C. 6402); sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF–251, 52 FR 19314, May 22, 1987; T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.286 Claims for remission of tax on beer lost in transit between breweries.

(a) *Filing of claim.* Claims for remission of tax on beer lost in transit between breweries of the same ownership shall be prepared on Form 2635 (Form 5620.8) by the brewer or the brewer's authorized agent and submitted with the Form 5130.9 of the receiving brewery for the reporting period in which the shipment is received. When the loss is by casualty, the claim will be submitted with the Form 5130.9 for the reporting period in which the loss is discovered. When, for valid reason, the required claim cannot be submitted with Form 5130.9, the brewer shall attach a statement to Form 5130.9 stating the reason why the claim cannot be filed at the time and stating when it will be filed. A claim will not be allowed unless filed within 6 months of the date of the loss.

(b) *Information to be shown.* The claim will show the following information:

(1) The date of the shipment;

(2) The quantity of beer lost (number and size of packages and their equivalent in barrels), and the rate(s) of tax at which the beer would have been removed for consumption or sale;

(3) The percent of loss;

(4) The specific cause of the loss;

(5) The nature of the loss (leakage, breakage, casualty, etc.);

(6) Information as to whether the claimant has been indemnified by insurance or otherwise in respect to the tax, or has any claim for indemnification; and

(7) For losses due to casualty or accident, statements from the carrier or other persons having personal knowledge of the loss, if available.

(27 U.S.C. 5056, 5414)

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986; T.D. ATF–345, 58 FR 40357, July 28, 1993]

## Subpart U—Records and Reports

### § 25.291 Records.

(a) *General.* (1) The records to be maintained by brewers include:

(i) All individual transaction forms, records, and summaries specifically required by this part;

(ii) All supplemental, auxiliary, and source data used in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and

(iii) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(2) The records required by this part may consist of the brewer's commercial documents, rather than records prepared expressly to meet the requirements of this part, if those documents contain all the details required by this part, are consistent with the general requirements of clarity and accuracy, and do not result in difficulty in their examination.

(b) *Entries.* (1) Each entry required by this part to be made in daily records will be made not later than the close of the business day next succeeding the day on which the transaction occurs.

(2) When the brewer prepares transaction or business records concurrenty with the individual operation or transaction and these records contain all the required information with respect to the operation or transaction, entries

in daily records may be made not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.

(c) *Content.* (1) All entries in the daily records required by this subpart will show the date of the operation or transaction.

(2) Daily records will accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable—

(i) Brewers to prepare summaries, reports, and returns required by this part, and

(ii) Appropriate TTB officers to verify removals of beer and cereal beverages, to verify claims, and to ascertain if there has been compliance with law and regulations.

(d) *Format.* (1) The brewer's copies of prescribed forms which bear all required details will be utilized as daily records.

(2) When a form is not prescribed, the records required by this subpart will be those commercial records used by the brewer in the accounting system and will bear all required details.

(3) The brewer shall maintain daily records required by this part so they clearly and accurately reflect all mandatory information. When the format or arrangement of the daily records is such that the information is not clearly or accurately shown, the appropriate TTB officer may require a format or arrangement which will clearly and accurately show the information.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

### § 25.292 Daily records of operations.

(a) *Daily records.* A brewer shall maintain daily records of operations which show by quantity the following:

(1) Each kind of material received and used in the production of beer and cereal beverage (including the balling and the quantity of each type of material used in the production of wort or concentrated wort).

(2) Beer and cereal beverage produced (including water added after production is determined).

(3) Beer and cereal beverage transferred for and returned from bottling.

(4) Beer and cereal beverage transferred for and returned from racking.

(5) Beer and cereal beverage bottled.

(6) Beer and cereal beverage racked.

(7) Cereal beverage removed from the brewery.

(8) Beer removed for consumption or sale. For each removal, the record will show the date of removal, the person to whom the beer was shipped or delivered (not required for sales in quantities of one-half barrel or less for delivery at the brewery), and the quantities of beer removed in kegs and in bottels.

(9) Beer removed without payment of tax. For each removal, the record will show the date of removal, the person to whom the beer was shipped or delivered, and the quantities of beer removed in kegs, bottles, tanks, tank cars, tank trucks, tank ships, barges or deep tanks of vessels.

(10) Packaged beer used for laboratory samples at the brewery.

(11) Beer consumed at the brewery.

(12) Beer returned to the brewery from which removed.

(13) Beer returned to the brewery after removal from another brewery owned by the brewer.

(14) Beer reconditioned, used as material, or destroyed.

(15) Beer received from other breweries or received from pilot brewing plants.

(16) Beer and cereal beverage lost due to breakage, theft, casualty, or other unusual cause.

(17) Brewing materials sold or transferred to pilot brewing plants (including the name and address of the person to whom shipped or delivered) and brewing materials used in the manufacture of wort, wort concentrate, malt syrup, and malt extract for sale or removal.

(18) Record of tests of measuring devices.

(19) Beer purchased from other brewers in the purchasing brewer's barrels and kegs and such beer sold to other brewers.

(b) *Daily summary records.* A brewer shall maintain daily summaries of the following transactions:

(1) Beer and cereal beverage bottled;

(2) Beer and cereal beverage racked;

(3) Beer removed for consumption or sale;

(4) Beer returned to the brewery from which removed;

(5) Beer returned to the brewery after removal from another brewery owned by the brewer; and

(6) Brewing materials, beer and cereal beverage in process, and finished beer and cereal beverage on hand.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986]

### § 25.293 Record of ballings and alcohol content.

The brewer shall maintain a record of the ballings of the wort produced, and of the ballings and the alcohol content of beer and cereal beverage transferred for bottling and racking, between breweries in bulk conveyances, and to pilot brewing plants. Records showing ballings and alcohol content need not be consolidated and averaged daily unless the brewer so desires.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

### § 25.294 Inventories.

(a) The brewer shall take a physical inventory of beer and cereal beverage at least once each calender month. The brewer may take this inventory within 7 days of the close of the calendar month for which made.

(b) The brewer shall make a record of inventories of beer or cereal beverage which will show the following:

(1) Date taken;

(2) Quantity of beer and cereal beverage on hand;

(3) Losses, gains, and shortages; and

(4) Signature, under penalties of perjury of the brewer or person taking this inventory.

(c) The brewer shall retain inventory records and make them available for inspection by an appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

### § 25.295 Record of unsalable beer.

A brewer having unsalable beer in packages or tanks in the brewery may destroy, recondition, or use the beer as material. The brewer shall report the quantity of the beer destroyed, reconditioned, or used as materials, in daily records and on Form 5130.9. If the unsalable beer consists of rejects from the packaging operations, the beer may be destroyed without being included in the packaging production records, and, when so destroyed, will be so reported in the brewer's daily records and on Form 5130.9. When reject bottled beer is to be consumed at the brewery or sold to brewery employees, or is cased or otherwise accumulated pending other disposition, the quantity will be included in the packaging production and be so reported in the brewer's daily records and on Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389 as amended, 1390, as amended, 1395 as amended (26 U.S.C. 5411, 5415, 5555))

### § 25.296 Record of beer concentrate.

(a) *Daily records.* A brewer who produces concentrate or reconstitutes beer shall maintain daily records which accurately reflect the balling, quantity, and alcohol content of—

(1) Beer entered into the concentration process;

(2) Concentrate produced;

(3) Concentrate transferred to other breweries;

(4) Concentrate exported;

(5) Concentrate received;

(6) Concentrate used in reconstituting beer; and

(7) Beer reconstituted.

(b) *Summary report of operations.* A brewer who produces concentrate or reconstitutes beer shall report by specific entries on Form 5130.9, the quantity of beer entered into the concentration process, and the quantity of beer reconstituted from concentrate. In addition, the brewer shall prepare on Form 5130.9, a summary accounting of all concentrate operations at the brewery for the reporting period. This summary accounting will show, in barrels of 31 gallons with fractions rounded to 2 decimal places:

(1) Concentrate on hand beginning of the reporting period;

(2) Concentrate on hand end of the reporting period;

(3) Concentrate produced;

(4) Concentrate received; and

(5) Specific disposition of concentrate such as ''used in reconstitution,'' ''removed for export,'' ''removed to foreign-trade zone,'' or ''transferred to other breweries.''

(26 U.S.C. 5415)

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40358, July 28, 1993]

### § 25.297 Brewer's Report of Operations, Form 5130.9.

(a) *Monthly report of operations.* Except as provided in paragraph (b) of this section, each brewer shall prepare and submit a monthly report of brewery operations on Form 5130.9.

(b) *Quarterly report of operations.* (1) For calendar quarters commencing on or after October 1, 1993, a brewer who produces less than 10,000 barrels of beer per calendar year may file the report of brewery operations quarterly. The report will be filed on Form 5130.9. For the purpose of establishing whether a quarterly report may be filed, the brewer will determine annual production of beer by adding up the quantities of beer produced, water/liquids added in cellars, and beer received from other breweries and from pilot brewing plants for all months of the previous calendar year.

(2) To begin the quarterly filing of a Brewer's Report of Operations, a brewer will state such intent in the ''Remarks'' section when filing the last monthly Form 5130.9 before the calendar quarter during which the brewer will commence quarterly filings. A brewer beginning business may file Form 5130.9 quarterly if the brewer states in the ''Remarks'' section of its initial monthly Form 5130.9 that the annual production of beer is not likely to exceed 10,000 barrels.

(3) If a brewer determines that the 10,000 barrel quantity for a calendar year will be exceeded in any month, the brewer shall file a Form 5130.9 for that month and for all subsequent months of the calendar year.

(4) The appropriate TTB officer may at any time require a brewer who is filing a Brewer's Report of Operations quarterly to file such report monthly if there is a jeopardy to the revenue.

(c) *Retention.* The brewer shall retain a copy of the Form 5130.9 as part of the brewery records.

(26 U.S.C. 5415, 5555)

[T.D. ATF–345, 58 FR 40358, July 28, 1993, as amended by T.D. ATF–437, 66 FR 5480, Jan. 19, 2001]

### § 25.298 Excise tax return, Form 5000.24.

All entries on the excise tax return, Form 5000.24, will be fully supported by accurate and complete records. The brewer shall file a copy of Form 5000.24 as a part of the records at the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1390, as amended, 1395, as amended (26 U.S.C. 5061, 5415, 5555))

### § 25.299 Execution under penalties of perjury.

When a return, form, or other document is required by this part or in the instruction on or with the return, form, or other document to be executed under the penalties of perjury, as defined in § 25.11, it will be so executed and will be signed by the brewer or other duly authorized person.

(Act of August 16, 1954, 68A Stat. 749, as amended (26 U.S.C. 6065))

### § 25.300 Retention and preservation of records.

(a) *Place of maintenance.* Records required by this part will be prepared and kept by the brewer at the brewery where the operation or transaction occurs and will be available for inspection by any appropriate TTB officer during business hours.

(b) *Reproduction of original records.* Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the brewer shall reproduce the record by a process under § 25.301. The reproduced record will be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original are applicable to the reproduction.

(c) *Retention of records.* Records required by this part will be preserved for a period of not less than three years from the date thereof or the date of the last entry required to be made thereon, whichever is later. The appropriate

TTB officer may require records to be kept for an additional period not exceeding three years in any case where such retention is deemed necessary or advisable for the protection of the revenue.

(d) *Data Processing.* (1) Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the brewery if the original transaction (source) records required by §§ 25.292–25.298 are kept available for inspection at the brewery.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted record media will be retrievable within five business days.

(3) The applicable data processing program will be made available for examination if requested by an appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

### § 25.301 Photographic copies of records.

(a) *General.* Brewers may record, copy, or reproduce records required by this part. Brewers may use any process 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 record the same as if it were the original record, and it will be treated and considered for all purposes as through it 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 brewer, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

# PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

## Subpart A—Scope of Regulations

Sec.
26.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.
26.2 Forms prescribed.
26.3 Delegations of the Administrator.

## Subpart B—Definitions

26.11 Meaning of terms.

## Subpart C [Reserved]

## Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

26.30 Excise taxes.
26.31 Formula.

## Subpart Cb—Products Coming into the United States From Puerto Rico

26.35 Taxable status.
26.36 Products exempt from tax.
26.36a–26.36b [Reserved]
26.36c Shipments of bulk distilled spirits to the United States without payment of tax.
26.37 Alcohol and Tobacco Tax and Trade Bureau Officers.
26.38 Containers of distilled spirits.
26.39 Labels.
26.40 Marking containers of distilled spirits.
26.41 Destruction of marks and brands.
26.43 Samples.

SPECIAL (OCCUPATIONAL) TAXES

26.44 Liquor dealer's special taxes.
26.45 Warehouse receipts covering distilled spirits.
26.46 Distilled spirits plant proprietor's special (occupational) tax.
26.47 Specially denatured spirits user's and dealer's special (occupational) taxes.

## Subpart D—Formulas for Products From Puerto Rico

26.50 Formulas for liquors.
26.50a Verfication of eligible flavors.
26.51 Formulas for articles, eligible articles, and products manufactured with denatured spirits.
26.52 Still wines containing carbon dioxide.
26.53 Changes of formulas.
26.54 Filing and disposition of formulas.
26.55 Previously approved formulas.

## Subpart E—Taxpayment of Liquors and Articles in Puerto Rico

BONDS

26.61 General.
26.62 Corporate surety.
26.62a Filing of powers of attorney.
26.62b Execution of powers of attorney.
26.63 Deposit of securities in lieu of corporate surety.
26.64 Consents of surety.
26.65 Authority to approve bonds and consents of surety.
26.66 Bond, TTB Form 5110.50—Distilled spirits.
26.67 Bond, Form 2897—Wine.
26.68 Bond, Form 2898—Beer.
26.68a Bond account.
26.69 Strengthening bonds.
26.70 New or superseding bonds.
26.70a Notice of approval of bonds.

TERMINATION OF BONDS

26.71 Termination of bonds.
26.72 Application of surety for relief from bond.
26.73 Relief of surety from bond.
26.74 Release of pledged securities.
26.75 Form 1490, Notice of Termination of Bond.

PERMITS REQUIRED

26.76 Insular permits.

DISTILLED SPIRITS

26.77 Subject to tax.
26.78 Application and permit, TTB Form 5110.51.
26.79 Inspection or gauge and computation of tax.
26.79a Computation of effective tax rate.
26.80 Deferred payment of tax—release of spirits.
26.81 Prepayment of tax and release of spirits.
26.82 Permit to ship.

PACKAGES OF DISTILLED SPIRITS

26.86 Authority for shipment.
26.87 Evidence of taxpayment.

WINE

26.92 Subject to tax.
26.93 Application and permit, Form 2900.
26.94 Computation of tax.
26.95 Deferred payment of tax—release of wine.
26.96 Prepayment of tax—release of wine.
26.96a [Reserved]
26.96b Permit to ship.
26.97 Marking containers of wine.

BEER

26.101 Subject to tax.
26.102 Application and permit, Form 2900.
26.103 Computation of tax.
26.104 Deferred payment of tax—release of beer.
26.105 Prepayment of tax—release of beer.
26.105a Permit to ship.
26.106 Marking containers of beer.

ARTICLES

26.107 Taxable status.
26.108 Application for permit, TTB Form 5110.51 and/or Form 2900.
26.109 Taxpayment.
26.110 Release of articles or liquors.

PAYMENT OF TAX BY RETURN

26.111 General.
26.112 Returns for deferred payment of tax.
26.112a Payment of tax by electronic fund transfer.
26.113 Returns for prepayment of taxes.

PERMIT TO SHIP LIQUORS AND ARTICLES

26.114 Permit to ship required.
26.115 Application, Form 487B.
26.116 Issuance of permit, Form 487B, and customs inspection.

PROCEDURE AT PORT OF ARRIVAL

26.117 Action by carrier.
26.118 Inspection by district director of customs at port of arrival.
26.119 Disposition of forms by district director of customs.

## Subpart F—Liquors and Articles Purchased by Tourists in Puerto Rico

26.125 Taxable.
26.126 Taxpayment in Puerto Rico.
26.128 Taxpayment at port of arrival.

## Subpart G—Closures for Distilled Spirits From Puerto Rico

26.135 Containers of distilled spirits to bear closures.
26.136 Affixing closures.

## Subpart H—Records and Reports of Liquors From Puerto Rico

26.163 General requirements.
26.164 Proprietors of taxpaid premises.
26.164a Package gauge record.
26.165 Certificate of effective tax rate computation.

## Subpart I—Claims for Drawback on Eligible Articles From Puerto Rico

26.170 Drawback of tax.
26.171 Special tax.
26.172 Bonds.
26.173 Claims for drawback.

26.174 Records.

## Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

26.191 Notice of shipment.
26.192 Samples and analysis.
26.193 Notification of tax liability.
26.194 Detention of articles.

## Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond

26.196 General.
26.197 Furnishing formula to consignee.
26.198 [Reserved]
26.199 Application and permit to ship, TTB Form 5110.31.
26.199a Action by revenue agent.
26.199b Issuance and disposition of permit.
26.199c Action by carrier.
26.199d Customs inspection and release.
26.199e [Reserved]
26.199f Consignee premises.

## Subpart J—Products Coming Into the United States From the Virgin Islands

26.200 Taxable status.
26.201 Products exempt from tax.
26.201a Production in the Virgin Islands for tax-free shipment to the United States.
26.201b [Reserved]
26.201c Shipments of bulk distilled spirits to the United States without payment of tax.
26.202 Requirements of the Federal Alcohol Administration Act.
26.203 Containers of 1 gallon (3.785 liters) or less.
26.203a Containers in excess of 1 gallon (3.785 liters).
26.204 Regauge.
26.204a Verification of eligible wines and eligible flavors.
26.205 Certificate.
26.206 Marking packages and cases.
26.207 Destruction of marks and brands.
26.209 Samples.

SPECIAL (OCCUPATIONAL) TAXES

26.210 Liquor dealer's special taxes.
26.211 Warehouse receipts covering distilled spirits.

## Subpart K—Formulas for Products From the Virgin Islands

26.220 Formulas for liquors.
26.221 Formulas for articles, eligible articles, and products manufactured with denatured spirits.
26.222 Still wines containing carbon dioxide.
26.223 Changes of formulas.
26.224 Filing and disposition of formulas.
26.225 Previously approved formulas.

## Subpart L—Closures for Distilled Spirits From the Virgin Islands

GENERAL

26.230 Containers of distilled spirits to bear closures.
26.231 Affixing closures.

## Subpart M—Procedure at Port of Entry From the Virgin Islands

26.260 Certificate.
26.261 Action by district director of customs.
26.262 Determination of tax on distilled spirits.
26.262a Computation of effective tax rate.
26.263 Determination of tax on beer.
26.264 Determination of tax on wine.
26.265 Determination of tax on articles.
26.266 Tax payment.
26.267 Payment of tax by electronic fund transfer.

## Subpart N—Records and Reports of Liquors From the Virgin Islands

RECORD AND REPORT OF LIQUORS BROUGHT INTO THE UNITED STATES

26.272 General requirements.
26.273 Proprietors of taxpaid premises.
26.273a Transfer record.
26.273b Package gauge record.

FILING AND RETENTION OF RECORDS AND REPORTS

26.275 Filing.
26.276 Retention.
26.277 [Reserved]

## Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

26.291 General.

SHIPMENT OF INDUSTRIAL SPIRITS AND SPECIALLY DENATURED SPIRITS

26.292 Copy of consignee's permit under part 20 or 22.
26.293 Marks on containers.
26.294 Record of shipment.

SHIPMENT OF COMPLETELY DENATURED ALCOHOL AND PRODUCTS MADE WITH DENATURED SPIRITS

26.295 Marks on containers.
26.296 Record of shipment.

ARRIVAL IN THE UNITED STATES

26.297 General.

Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond

26.300 General.
26.301 Preparation of transfer record.
26.302 Gauge and certification.
26.303 Customs inspection and release.
26.304 Bulk conveyances to be sealed.
26.305 Receipt by consignee.

Subpart Ob—Claims for Drawback on Eligible Articles From the Virgin Islands

26.306 Drawback of tax.
26.307 Special tax.
26.308 Bonds.
26.309 Claims for drawback.
26.310 Records.

Subpart P—Requirements for Liquor Bottles

26.311 Scope of subpart.
26.312 Standards of fill.
26.314 Distinctive liquor bottles.
26.315 [Reserved]
26.316 Bottles not constituting approved containers.
26.317 Bottles to be used for display purposes.
26.318 Liquor bottles denied entry.
26.319 Used liquor bottles.

Subpart Q—Miscellaneous Provisions

26.331 Alternate methods or procedures.

AUTHORITY: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5148, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: 20 FR 6077, Aug. 20, 1955, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF–459, 66 FR 38550, July 25, 2001.

EDITORIAL NOTE: Nomenclature changes to part 26 appear at 66 FR 21668, 21669, May 1, 2001.

## Subpart A—Scope of Regulations

### §26.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

This part, ''Liquors and Articles from Puerto Rico and the Virgin Islands,'' relates to:

(a) The production, bonded warehousing, and withdrawal of distilled spirits and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax;

(b) The collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands;

(c) The transfer, without payment of tax, of Puerto Rican and Virgin Islands spirits in bulk containers or by pipeline from customs custody to the bonded premises of a distilled spirits plant qualified under part 19 of this chapter;

(d) The deposit of the distilled spirits excise taxes, limited to the lesser of $10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all articles containing distilled spirits as defined in section 7652, produced by those two U.S. possessions, and transported into the United States (less certain amounts); and

(e) The deposit of the distilled spirits excise taxes, limited to the lesser of $10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), less certain amounts.

(Approved by the Office of Management and Budget under control number 1512–0277)

(Sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652)

[T.D. ATF–175, 49 FR 20803, May 16, 1984, as amended by T.D. ATF–203, 50 FR 15887, Apr. 23, 1985]

### §26.2 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including applications, reports, returns, 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. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB

Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF–92, 46 FR 46920, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5963, Feb. 27, 1987; T.D. ATF–372, 41 FR 20725, May 8, 1996; T.D. ATF–451, 66 FR 21668, May 1, 2001; T.D. TTB–44, 71 FR 16943, Apr. 4, 2006]

### § 26.3 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.26, Delegation of the Administrator's Authorities in 27 CFR Part 26, Liquors and Articles From Puerto Rico and the Virgin Islands. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16944, Apr. 4, 2006]

## Subpart B—Definitions

### § 26.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.26, Delegation of the Administrator's Authorities in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the Virgin Islands.

*Article.* Any preparation unfit for beverage use, made with or containing:

(1) Wine or beer;

(2) Distilled spirits or industrial spirits; or

(3) Denatured spirits when such preparation is not manufactured under the provisions of this chapter.

*Bank.* Any commercial bank.

*Banking day.* Any day during which a bank is open to the public for carrying on substantially all its banking functions.

*Beer.* Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed, or produced from malt, wholly or in part, or from any substitute therefor.

*Bottler.* Any person required to hold a basic permit as a bottler under 27 U.S.C. 203(b)(1).

*Bulk container.* Any container having a capacity of more than 1 gallon.

*Bulk distilled spirits.* The term ''bulk distilled spirits'' means distilled spirits in a container having a capacity in excess of 1 gallon.

*Bureau of Alcoholic Beverage Taxes.* Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

*Business day.* Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

*Calendar quarter and quarterly.* These terms refer to the three-month period ending on March 31, June 30, September 30, or December 31.

*Commercial bank.* A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The ''FRCS'' or ''Fedwire'' is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

*Customs officer.* Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Denatured spirits.* Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this chapter relating to the establishment and operation of plants qualified to denature spirits in the United States or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

*Director of the service center.* A director of an internal revenue service center.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

*District director.* A district director of internal revenue.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*Effective tax rate.* The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 7652 is paid or determined.

*Electronic fund transfer or EFT.* Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

*Eligible article.* Any medicine, medicinal preparation, food product, flavor, flavoring extract or perfume which contains distilled spirits, is unfit for beverage purposes, and has been or will be brought into the United States from Puerto Rico or the Virgin Islands under the provisions of 26 U.S.C. 7652(g).

*Eligible flavor.* A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

*Eligible wine.* Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, 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.''

*Fiscal year.* The period which begins October 1 and ends on the following September 30.

*Gallon or wine gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*Importer.* Any person who imports distilled spirits, wines, or beer into the United States.

*Industrial spirits.* As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this

chapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

*Kind.* As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue.

*Liquors.* Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

*Permit.* A formal written authorization of the Secretary of the Treasury of Puerto Rico.

*Person.* An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

*Proof gallon.* A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

*Rectifier.* Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

*Revenue Agent.* Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

*Secretary.* The Secretary of the Treasury of Puerto Rico.

*Secretary or his delegate.* The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

*Taxpaid.* As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was deferred under the provisions of subpart E of this part.

*Treasury Account.* The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

*United States.* The States and the District of Columbia.

*U.S.C.* The United States Code.

*Virgin Islands regulations.* Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and § 26.201a.

*Wine.* Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF–48, 43 FR 13551, Mar. 31, 1978, as amended by T.D. TTB–44, 71 FR 16944, Apr. 4, 2006]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## Subpart C [Reserved]

## Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

### § 26.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited

into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 26.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of $10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF–203, 50 FR 15888, Apr. 23, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

### § 26.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. This base percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. The formula shall be as follows:

(1) Multiply the total excise taxes collected on rum brought into the United States (including rum from Puerto Rico and the Virgin Islands) during the previous fiscal year (October 1–September 30) by the base percentages to determine the relative shares of the entire U.S. rum market that will be allotted to Puerto Rico and the Virgin Islands;

(2) Subtract each of these shares from the excise taxes collected on rum transported to the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss or gain in relation to the previous fiscal year's U.S. rum market. Divide these results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands.

(b) Notwithstanding the formula prescribed in paragraph (a) above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.626889 percent nor drop below 51 percent.

(c) The percentage for the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands, that will be paid over to the Treasuries of Puerto Rico and the Virgin Islands, shall be effective on March 1 of each year, and shall remain in effect until March 1 of the following year.

(d) The method for transferring the excise tax collections on rum imported from areas other than Puerto Rico and the Virgin Islands, into the Treasuries of Puerto Rico and the Virgin Islands shall be the same as the method used for transferring excise taxes into the Treasury of Puerto Rico on distilled spirits (with an alcohol content of at least 92 percent rum) brought into the United States from Puerto Rico.

(e) The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico shall continue to receive 86.4 percent of the eligible excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands. The Virgin Islands shall continue to receive 13.6 percent of these eligible excise taxes until March 1, 1987.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF–233, 51 FR 28078, Aug. 5, 1986; 52 FR 2222, Jan. 21, 1987]

## Subpart Cb—Products Coming Into the United States From Puerto Rico

### § 26.35 Taxable status.

(a) Liquors coming into the United States from Puerto Rico, except as provided in § 26.36, are subject to a tax

equal to the internal revenue tax imposed on the production in the United States of like liquors. Articles coming into the United States from Puerto Rico, except as provided in § 26.36, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) The excise taxes collected on distilled spirits or articles containing distilled spirits shall be deposited into the Treasury of Puerto Rico only if at least 92 percent of the alcoholic content of such products is rum. The amount deposited into the Treasury of Puerto Rico shall not exceed the lesser of $10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of such distilled spirits or articles, other than eligible articles, containing distilled spirits coming into the United States or consumed on the island. Such excise tax deposits will be reduced by the estimated amount necessary for payment of refunds and drawbacks.

(c) Except for products described in 26 U.S.C. 7652(c), no excise taxes shall be deposited into the Treasury of Puerto Rico if an excise tax subsidy is provided by Puerto Rico that is of a kind different from, or in an amount per value or volume of production greater than, any subsidy offered by Puerto Rico to industries manufacturing products not subject to Federal excise tax.

(Sec. 2682, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 7652))

[T.D. ATF–175, 49 FR 20804, May 16, 1984, as amended by T.D. ATF–203, 50 FR 15888, Apr. 23, 1985; T.D. ATF–263, 52 FR 46593, Dec. 9, 1987. Redesignated and amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

### § 26.36 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, files a bond, and pays special (occupational) tax 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 and has paid special (occupational) tax 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, files a bond, and pays special (occupational) tax 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 and has paid special (occupational) tax 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 manufactures 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, and pays special (occupational) tax, 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.

[T.D. ATF–199, 50 FR 9198, Mar. 6, 1985; T.D. ATF–199, 50 FR 20099, May, 14, 1985, as amended by T.D. ATF–271, 53 FR 17559, May 17, 1988]

### §§ 26.36a–26.36b [Reserved]

### § 26.36c Shipments of bulk distilled spirits to the United States without payment of tax.

Bulk distilled spirits may be brought into the United States from Puerto Rico without payment of tax for transfer from customs custody to the bonded

premises of a distilled spirits plant qualified under part 19 of this chapter. Such shipments are subject to the provisions of subpart Ib.

[T.D. ATF–62, 44 FR 71709, Dec. 11, 1979]

### § 26.37 Alcohol and Tobacco Tax and Trade Bureau Officers.

Appropriate TTB officers are authorized to collect internal revenue taxes on liquors and articles subject to tax, which are to be shipped to the United States.

[T.D. TTB–44, 71 FR 16944, Apr. 4, 2006]

### § 26.38 Containers of distilled spirits.

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of subpart P of this part.

[T.D. ATF–34, 41 FR 46863, Oct. 26, 1976]

### § 26.39 Labels.

All labels affixed to bottles of liquors coming into the United States shall conform to the requirements of the Federal Alcohol Administration Act and implementing regulations (parts 4, 5, and 7 of this chapter).

[T.D. ATF–48, 44 FR 55851, Sept. 28, 1979]

### § 26.40 Marking containers of distilled spirits.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the distiller, rectifier, or bottler.

(b) The brand name and kind of liquor;

(c) The wine and proof gallon contents; or, for bottles filled according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits; and

(d) In the case of barrels or casks, the serial number of the permit to ship, Form 487–B, prefixed by the number of such form (e.g., ''487–B–61–1'')

(e) In the case of bulk containers shipped to the United States under subpart Ib, the serial number of the application and permit to ship, TTB Form 5110.31, instead of the serial number of Form 487–B.

[T.D. ATF–43, 42 FR 30836, June 17, 1977; as amended by T.D. ATF–62, 44 FR 71709, Dec. 11, 1979]

### § 26.41 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed or obscured or obliterated before the contents thereof have been removed.

(Sec. 201, Pub. L. 85–859, 1358, as amended, 26 U.S.C. 5205)

[T.D. ATF–198, 50 FR 8548, Mar. 1, 1985]

### § 26.43 Samples.

The appropriate TTB officer may require samples of liquors and articles to be submitted whenever desired for laboratory analysis in order to determine the rates of tax applicable thereto.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

## SPECIAL (OCCUPATIONAL) TAXES

### § 26.44 Liquor dealer's special taxes.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person bringing liquors into the United States from Puerto Rico, who sells, or offers for sale, such liquors shall file Form 5630.5 with TTB in accordance with the instructions of the form, and pay special (occupational) tax as a wholesale dealer in liquor or as a retail dealer in liquor in accordance with the law and regulations governing the payment of such special taxes (part 31 of this chapter).

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in

paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340 as amended, 1343 as amended, 1344 as amended (26 U.S.C. 5111, 5112, 5121, 5122))

[T.D. ATF–70, 45 FR 33980, May 21, 1980, as amended by T.D. ATF–251, 52 FR 19338, May 22, 1987; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005; T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 26.45 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 26.44(b), every person bringing distilled spirits into the United States from Puerto Rico, who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold, or offered for sale, and must file return and pay occupational tax as provided in § 26.44(a). During the suspension period, every such person must register as provided in § 26.44(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

[T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 26.46 Distilled spirits plant proprietor's special (occupational) tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every proprietor of a distilled spirits plant producing industrial spirits, denatured spirits, or products made with denatured spirits, for shipment to the United States, shall file Form 5630.5 with TTB in accordance with instructions on the form and pay special (occupational) tax as a distilled spirits plant proprietor in accordance with part 19 of this chapter.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 19 of this chapter, during the suspension period even though the amount of tax due is zero.

(26. U.S.C. 5081, 5314)

[T.D. ATF–271, 53 FR 17559, May 17, 1988, as amended by T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 26.47 Specially denatured spirits user's and dealer's special (occupational) taxes.

Every user of specially denatured spirits who manufactures products made with such spirits for shipment to the United States, and every dealer in specially denatured spirits who ships such spirits to the United States, who is required by § 26.36 to obtain a permit under part 20 of this chapter, shall file Form 5630.5 with TTB in accordance with instructions on the form and pay special (occupational) tax as a user or dealer in specially denatured spirits under part 20 of this chapter.

(.S.C. 5271, 5276, 5314)

[T.D. ATF–271, 53 FR 17559, May 17, 1988. Redesignated and amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

## Subpart D—Formulas for Products From Puerto Rico

SOURCE: 44 FR 71709, Dec. 11, 1979, unless otherwise noted.

### § 26.50 Formulas for liquors.

(a) *Distilled spirits products.* Except for products which are exempt from tax, as specified in § 26.36, formulas are required by part 5 of this chapter for distilled spirits products shipped to the United States from Puerto Rico. If a formula is submitted to cover only the production of spirits which are to be transferred to the bonded premises of a DSP under 26 U.S.C. 5232, the formula shall include a statement to that effect. If any product contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. These formulas shall be submitted on TTB Form 5110.38, in accordance with § 26.54.

(b) *Wine.* Persons in Puerto Rico who ship wine to the United States shall comply with the formula requirements of 27 CFR part 240. If any wine contains

liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 698 Supplemental, in accordance with § 26.54.

(Approved by the Office of Management and Budget under control number 1512–0204)

[T.D. ATF–198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38551, July 25, 2001]

### § 26.50a Verification of eligible flavors.

(a) Any person who, after December 1, 1990, ships to the United States any distilled spirits on which the tax has been or is to be paid or determined at an effective tax rate based in part on the alcohol content derived from any eligible flavor not previously approved on TTB Form 5530.5 (1678) or 5150.19 shall, before the first tax determination at that rate, request and receive a statement of eligibility for each flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the person shipping the distilled spirits shall submit to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample; and

(2) A statement of composition using TTB Form 5154.1 or a letterhead request that lists the—

(i) Name and percentage of alcohol by volume of the flavor; and

(ii) Name and quantity of each ingredient used in the manufacture of the flavor.

(Approved by the Office of Management and Budget under control number 1512–0203)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18066, Apr. 30, 1990, as amended by T.D. ATF–451, 66 FR 21669, May 1, 2001; T.D. TTB–44, 71 FR 16944, Apr. 4, 2006]

### § 26.51 Formulas for articles, eligible articles and products manufactured with denatured spirits.

(a) *Formulas for articles and eligible articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, and the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine. Formulas and samples for eligible articles are required in accordance with subpart F of part 17 of this chapter.

(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 TTB Form 1479–A or 27–B Supplemental.

(c) *Formulas required.* Formulas required by this section shall be submitted on Form 5150.19, except that formulas for eligible articles shall be submitted on Form 5154.1 (formerly 1678). Formulas shall be submitted in accordance with § 26.54. Any formula for an eligible article approved on Form 5150.19 prior to October 23, 1986 shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula.

(Approved by the Office of Management and Budget under control number 1512–0494)

[44 FR 71709, Dec. 11, 1979, as amended by T.D. ATF–199, 50 FR 9198, Mar. 6, 1985; T.D. ATF–263, 52 FR 46593, Dec. 9, 1987; T.D. ATF–379, 61 FR 31427, June 20, 1996. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.52 Still wines containing carbon dioxide.

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the appropriate TTB officer. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in quadruplicate to the appropriate TTB officer, who shall retain one copy, forward one copy to the Secretary, and one copy to the revenue agent at the proprietor's premises, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by revenue agents.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C 5041))

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.53 Changes of formulas.

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

### § 26.54 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed TTB form. The applicant shall maintain copies of approved formulas available for examination by revenue agents.

[ T.D. ATF–451, 66 FR 21669, May 1, 2001]

### § 26.55 Previously approved formulas.

Any formula approved on Form 27–B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27–B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the notice requirement of § 26.52 shall not apply.

[44 FR 71709, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

## Subpart E—Taxpayment of Liquors and Articles in Puerto Rico

SOURCE: T.D. 6551, 26 FR 1490, Feb. 22, 1961, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

BONDS

### § 26.61 General.

Every person filing a bond under this subpart, or consent of surety on such bond, must file it in accordance with the instructions on the form.

[T.D. ATF–451, 66 FR 21669, May 1, 2001]

### § 26.62 Corporate surety.

(a) Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary of the Treasury, as set forth in the current revision of U.S. Treasury

Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies of the circular may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

[T.D. ATF–92, 46 FR 46921, Sept. 23, 1981]

### § 26.62a 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 so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. ATF–2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.62b 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 other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. ATF–2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.63 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225—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.

(5 U.S.C. 552(a) (80 Stat. 383, as amended); 61 Stat. 650; 6 U.S.C. 15)

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–92, 46 FR 46921, Sept. 23, 1981]

### § 26.64 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.

### § 26.65 Authority to approve bonds and consents of surety.

The appropriate TTB officer is authorized to approve all bonds and consents of surety filed under this part.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.66 Bond, TTB Form 5110.50—Distilled spirits.

(a) *General.* If any person intends to ship to the United States, distilled spirits products of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), he shall, before making any such shipment, furnish a bond TTB Form 5110.50, for each premises from which shipment will be made, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all distilled spirits products shipped. The bond shall be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond shall not exceed $1,000,000, but in no case shall the penal sum be less than $1,000.

(b) *Blanket bond.* Any person who is the proprietor of more than one premises in Puerto Rico from which shipment of spirits to the United States will be made, may, in lieu of furnishing two or more separate bonds on TTB Form 5110.50 as required by paragraph (a) of this section, furnish a blanket bond on TTB Form 5110.50. The penal sum of such blanket bond shall be equal to the sum of the penal sums of all the bonds in lieu of which it is given. Such blanket bond on TTB Form 5110.50 shall show each bonded warehouse and/or bonded processing room and/or rectifying plant to be covered by the bond, and the part of the total penal sum (computed in accordance with paragraph (a) of this section) to be allocated to each of the designated premises. If the penal sum of the bond allocated to a designated premises is in an amount less than the maximum prescribed in paragraph (a) of this section, transactions at such premises shall not exceed the quantity permissible, as reflected by the penal sum allocated in the bond to such premises. Such blanket bond shall contain the terms and conditions of the bonds in lieu of which it is given and shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Act of August 16, 1954, 68A Stat. 847, as amended, 907, as amended (26 U.S.C 7101, 7102, 7652))

[T.D. ATF–62, 44 FR 71710, Dec. 11, 1979]

### § 26.67 Bond, Form 2897—Wine.

Where a proprietor intends to withdraw, for purpose of shipment to the United States, wine of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5041, he shall, before making any such withdrawal, furnish a bond, Form 2897, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all wine so withdrawn. The bond shall be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond: *Provided,* That the penal sum of such bond shall not exceed $250,000, but in no case shall the penal sum be less than $500.

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55852, Sept. 28, 1979]

### § 26.68 Bond, Form 2898—Beer.

Where a brewer intends to withdraw, for purpose of shipment to the United States, beer of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5051, he shall, before making any such withdrawal, furnish a bond, Form 2898, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all beer so withdrawn. The bond shall be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond: *Provided,* That the penal sum of such bond shall not exceed $500,000, but in no case shall the penal sum be less than $1,000.

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55852, Sept. 28, 1979]

### § 26.68a Bond account.

Every person who files a bond under this subpart shall keep an account of the charges against and credits to the bond if the penal sum of his bond is less than the maximum prescribed in §§ 26.66(a), 26.67, or § 26.68, or if the penal sum allocated to his premises under § 26.66(b) is less than the prescribed maximum. He shall charge the bond with the amount of liability he accepts at the time he executes TTB Form 5110.51 or 2900, and shall credit the bond with the amount of the tax paid at the time he files each return, TTB Form 5110.32, 2927, or 2929, and remittance.

The account shall also show the balance available under the bond at any one time.

[T.D. ATF–62, 44 FR 71710, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.69 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

### § 26.70 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of an existing bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 26.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

[T.D. 6551, 26 FR 1590, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987. Further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.70a Notice of approval of bonds.

Upon approval of an original, a strengthening, or a superseding bond, the appropriate TTB officer shall notify the Secretary, and the revenue agent at the premises, of the total penal sum of the bond or bonds, and in the case of a blanket bond, the amount of the penal sum allocated to the premises.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

## TERMINATION OF BONDS

### § 26.71 Termination of bonds.

Any bond given under the provisions of this subpart may be terminated as to future transactions—

(a) Pursuant to application of surety as provided in § 26.72;

(b) On approval of a superseding bond;

(c) On notification by the principal to the appropriate TTB officer that he has discontinued transactions under the bond; or

(d) On notification by the principal to the appropriate TTB officer that he has discontinued business.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.72 Application of surety for relief from bond.

A surety on any bond given under the provisions of this subpart may at any time in writing notify the principal and the appropriate TTB officer that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 10 days after the date the notice is received by the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved

from liability to the extent set forth in § 26.73.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–251, 52 FR 19338, May 22, 1987. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.73 Relief of surety from bond.

Where the surety on a bond given under the provisions of this subpart has filed application for relief from liability, as provided in § 26.72, the surety shall be relieved from liability for transactions occurring wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975 and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.74 Release of pledged securities.

Securities of the United States pledged and deposited as provided in § 26.63, shall be released only in accordance with the provisions of 31 CFR part 225. Such securities will not be released by the appropriate TTB officer until the liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the appropriate TTB officer may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

[T.D. 6551, 26 FR 1590, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.75 Form 1490, Notice of Termination of Bond.

When the appropriate TTB officer is satisfied that any bond given under the provisions of this subpart may be terminated, he shall issue Form 1490, Notice of Termination of Bond, and shall forward copies to the principal and to the surety. The appropriate TTB officer shall, prior to the termination date, notify the Secretary and the revenue agent of the proposed termination of any bond given under this part and the date of such termination.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963, as amended by T.D. ATF–2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

## PERMITS REQUIRED

### § 26.76 Insular permits.

Before liquors or articles of Puerto Rican manufacture may be shipped to the United States, an insular permit, TTB Form 5110.51 (for distilled spirits) or Form 2900 (for wine or beer), to compute the taxes imposed by 26 U.S.C. 7652(a), and to withdraw the products from the bonded establishment where they may be deposited, must be obtained from the Secretary, and such products may not be shipped to the United States until a permit to ship, on Form 487B, is applied for and obtained from the Secretary.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.76, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## DISTILLED SPIRITS

### § 26.77 Subject to tax.

(a) Distilled spirits of Puerto Rican manufacture, and any products containing such distilled spirits, brought into the United States and withdrawn for consumption or sale are subject to a tax equal to the tax imposed in the United States by 26 U.S.C. 5001.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 26.79a. The effective tax rate established will be applied to each withdrawal or other disposition of the distilled spirits for consumption or sale within the United States.

(Approved by Office of Management and Budget under control number 1512–0203)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18066, Apr. 30, 1990. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.78 Application and permit, TTB Form 5110.51.

Application for permit to compute the tax on, and to withdraw, distilled spirits shall be made on TTB Form 5110.51, in quintuplicate, by the proprietor. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and forward the original and remaining copies of the form to the revenue agent at the premises where the products are located.

[T.D. ATF–62, 44 FR 71711, Dec. 11, 1979, as amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.79 Inspection or gauge and computation of tax.

On receipt of permit to compute the tax on TTB Form 5110.51, the revenue agent shall:

(a) In the case of spirits in packages, prepare a gauge record as provided in § 26.164a in quadruplicate, compute the tax thereon, and attach all copies of the gauge record to TTB Form 5110.51;

(b) In the instance of spirits in cases, verify by inspection the quantity of spirits described on the form; or

(c) In the case of spirits in a bulk conveyance, verify by gauge or inspection the quantity of spirits described on the form.

If the revenue agent determines any variation between his gauge and the quantity of spirits described on Form 5110.51, he shall amend and initial the data in part I of the form. The revenue agent shall deliver all copies of Form 5110.51 and any accompanying package gauge record to the proprietor. The proprietor shall then compute and enter the amount of tax on all copies of Form 5110.51.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.79a Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) the numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate

rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD

| | |
|---|---|
| Distilled spirits | 2249.1 proof gallons. |
| Eligible wine (14% alcohol by volume). | 2265.0 wine gallons |
| Eligible wine (19% alcohol by volume). | 1020.0 wine gallons |
| Eligible flavors | 100.9 proof gallons |

$$\frac{2249.1(\$12.50)+[2265.0(\$.17)+1020(\$.67)]+16.6^{1}(\$12.50)}{2249.1+100.9+[2265.0(.28)+1020.0(.38)]}=$$

$$\frac{2249.1(\$13.50)+[2265.0(\$1.07)+1020(\$1.57)]+16.6^{1}(\$13.50)}{2249.1+100.9+(2265.0\times.28)+(1020\times.38)}=$$

$$\frac{\$30{,}362.85+\$2{,}423.55+\$1{,}601.40+\$224.10}{2{,}350.0+634.2+387.6}=$$

$$\frac{\$34{,}611.90}{3{,}371.8}=\$10.27,\ \text{the effective tax rate.}$$

(Approved by Office of Management and Budget under control number 1512–0203)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18066, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52741, Dec 21, 1990]

## § 26.80 Deferred payment of tax—release of spirits.

(a) *Action by proprietor.* Where the proprietor has furnished bond on TTB Form 5110.50, and payment of the tax is to be deferred, he shall execute an agreement on TTB Form 5110.51 to pay the amount of tax which has been computed and entered on the form. He shall also certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable agains this bond. The proprietor shall deliver all copies of TTB Form 5110.51 and any package gauge record as provided in § 26.164a to the revenue agent.

(b) *Action by revenue agent.* On receipt of TTB Form 5110.51 and any package gauge record, the revenue agent shall verify the computation of the tax entered on the TTB Form 5110.51, and if the proprietor has on file a good and sufficient bond, TTB Form 5110.50, so indicate on TTB Form 5110.51. The revenue agent shall then execute his report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. He shall distribute TTB Form 5110.51 and any package gauge record according to the instructions of TTB Form 5110.51. Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or where the revenue agent has received information that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of TTB Form 5110.51 and any package gauge record

[1] Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the total proof gallons in the batch (100.9 − (2½%) × 3.371.8 = 16.6).

to the proprietor, giving his reasons for such action.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.81 Prepayment of tax and release of spirits.

(a) *Action by proprietor.* Where the distilled spirits are to be released after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 5110.51 and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate, and send the original with all copies of TTB Form 5110.51 and any package gauge record as provided in § 26.164a and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 5110.51, 5000.25 and any package gauge record, with remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 5110.51. The appropriate TTB officer shall then retain the originals of TTB Forms 5110.51 and 5000.25 and forward the remaining copies of TTB Form 5110.51 in accordance to the instructions on the form.

(c) *Action by revenue agent.* On receipt of TTB Form 5110.51 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. The completed TTB Form 5110.51 shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512–0210 and 1512–0497)

[T.D. ATF–277, 53 FR 45267, Nov. 9, 1988. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.82 Permit to ship.

Distilled spirits may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71711, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

PACKAGES OF DISTILLED SPIRITS

### § 26.86 Authority for shipment.

Where distilled spirits of Puerto Rican manufacture are to be shipped to the United States in containers having a capacity of more than one gallon, the laws and regulations of the Commonwealth of Puerto Rico require that prior approval for such shipment be obtained from the Secretary.

[T.D. 6695, 28 FR 12933, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.87 Evidence of taxpayment.

Where, under the provisions of § 26.86, a person has made application to the Secretary for authority to ship distilled spirits of Puerto Rican manufacture to the United States in containers having a capacity of more than one gallon, he shall, at the same time, submit sworn evidence to the Secretary that the distilled spirits tax has been paid as provided in § 26.81 or deferred as provided in § 26.80, or he shall submit application, TTB Form 5110.51, for permit to pay such taxes, as provided in § 26.78. When satisfied that the shipper has complied with all provisions of this part relating to the payment of taxes on such distilled spirits, the Secretary or his delegate, shall note his approval on both copies of the sworn application, and return one copy to the shipper. On receipt of the approved application, the shipper shall submit application for permit to ship, Form 487B, as prescribed in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12933, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71711, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

WINE

### § 26.92 Subject to tax.

(a) Wine of Puerto Rican manufacture coming into the United States and

withdrawn for consumption or sale is subject to a tax equal to the internal revenue tax imposed in the United States on wine by 26 U.S.C. 5041.

(b) The excise taxes collected on wine of Puerto Rican manufacture shall be deposited in the Treasury of Puerto Rico only if the sum of the cost or value of the materials produced in Puerto Rico, plus the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of the wine when it is brought into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF–206, 50 FR 15888, Apr. 23, 1985]

### § 26.93 Application and permit, Form 2900.

When wine of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in an article made with wine only or with wine and beer only, for shipment to the United States, application for permit to compute the tax on, and to withdraw, the wine shall be made on Form 2900, in quintuplicate, by the proprietor of the bonded premises where the wine is stored. If the withdrawal is to be made in casks, barrels, kegs or similar containers, the proprietor shall enter the name of the winemaker producing the wine, the serial numbers of the packages, the total number of wine gallons contained therein, and the taxable grade of the wine, for example, ''not more than 14 percent'' if the wine contains not more than 14 percent of alcohol by volume, ''14–21 percent'' if the wine contains more than 14 percent and not exceeding 21 percent of alcohol by volume, ''21–24 percent'' if the wine contains more than 21 percent but not exceeding 24 percent of alcohol by volume. If the application covers more than one taxable grade of wine, the quantity in each taxable grade shall be reported separately. If the withdrawal is to consist of bottled wine, the proprietor shall show the number of cases, size of the bottles, the number of bottles per case, the total quantity in wine gallons, and the taxable grade of the wine in the manner stated above. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and three copies to the proprietor.

[T.D. ATF–62, 44 FR 71712, Dec. 11, 1979, as amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.94 Computation of tax.

On receipt of permit to compute the tax on Form 2900, the proprietor shall compute and enter the amount of the tax on all copies of the form.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.95 Deferred payment of tax—release of wine.

(a) *Action by proprietor.* Where the proprietor has furnished bond, on Form 2897, and payment of the tax is to be deferred, he shall execute the agreement on Form 2900 to pay the amount of tax which has been computed and entered on the form. He shall also certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the wine described on the form in addition to all other amounts chargeable against his bond. The proprietor shall deliver all copies of Form 2900 to the revenue agent.

(b) *Action by revenue agent.* On receipt of Form 2900, the revenue agent shall verify the computation of the tax entered on the form, and if the proprietor has on file a good and sufficient bond, Form 2897, so indicate on Form 2900. The revenue agent shall then execute his report of release on the Form 2900 and release the wine for the purpose authorized on the form. The completed form shall be distributed in the same manner as provided for TTB Form 5110.51 in § 26.80(b). Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of Form 2900 to the

proprietor, giving his reasons for such action.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.96 Prepayment of tax—release of wine.

(a) *Action by proprietor.* Where the wine is to be withdrawn from bonded storage after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5100.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions on the form.

(c) *Action by revenue agent.* On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the wine for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512–0149 and 1512–0497)

[T.D. ATF–277, 53 FR 45267, Nov. 9, 1988]

### § 26.96a [Reserved]

### § 26.96b Permit to ship.

Wine released from bonded storage under § 26.95 or § 26.96 may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.97 Marking containers of wine.

Containers of wine of Puerto Rican manufacture which are to be shipped to the United States must be marked with the name of the winemaker, the serial number of the container, the kind and taxable grade of the wine, the gallon content, and the serial number of the withdrawal permit, Form 487B, prefixed by the number of such form, e.g., ''487B–61–3.''

## BEER

### § 26.101 Subject to tax.

(a) Beer of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale is subject to a tax equal to the internal revenue tax imposed on beer in the United States by 26 U.S.C. 5051.

(b) The excise taxes collected on beer of Puerto Rican manufacture shall be deposited in the Treasury of Puerto Rico only if the sum of the cost or value of the materials produced in Puerto Rico, plus the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of the beer when it is brought into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF–206, 50 FR 15888, Apr. 23, 1985]

### § 26.102 Application and permit, Form 2900.

When beer of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in making an article for shipment to the United States, application for permit to compute the tax on, and to withdraw, the beer shall be made by the brewer on Form 2900, in quintuplicate. If the withdrawal is to be made in hogsheads, barrels, or kegs, the brewer shall enter the total number of each size, according to capacity, of containers which it

is desired to withdraw. If the withdrawal is to be made in bottles, the brewer shall enter the number of cases, size of bottles, number of bottles per case, the total contents thereof in gallons (liquid measure), and the equivalent thereof in barrels and fractions of barrels of 31 gallons each. The brewer shall forward all copies of the Form 2900 to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and three copies to the brewer.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19338, May 22, 1987]

### § 26.103 Computation of tax.

On receipt of permit to compute the tax on Form 2900 the brewer shall compute and enter the amount of the tax on all copies of the form.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.104 Deferred payment of tax—release of beer.

(a) *Action by brewer.* Where the brewer has furnished bond on Form 2898, and payment of the tax is to be deferred, he shall execute the agreement on Form 2900 to pay the amount of tax which has been computed and entered on the form. He shall also certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the beer described on the form in addition to all other amounts chargeable against his bond. The brewer shall deliver all copies of Form 2900 to the revenue agent.

(b) *Action by revenue agent.* On receipt of Form 2900, the revenue agent shall verify the computation of the tax entered on the form, and if the proprietor has on file a good and sufficient bond, Form 2898, so indicate on Form 2900. The revenue agent shall then execute his report of release on the Form 2900 and release the beer for the purpose authorized on the form. The completed form shall be distributed in the same manner as provided for TTB Form 5110.51 in § 26.80(b). Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of Form 2900 to the proprietor, giving his reasons for such action.

[T.D. 6695, 28 FR 12934, Dec. 5 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.105 Prepayment of tax—release of beer.

(a) *Action by brewer.* Where the beer is to be withdrawn from bonded storage after payment of the computed tax the brewer shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The brewer shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5110.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions of the form.

(c) *Action by revenue agent.* On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the beer for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512–0149 and 1512–0497)

[T.D. ATF–277, 53 FR 45268, Nov. 9, 1988]

### § 26.105a Permit to ship.

Beer released from bonded storage under § 26.104 or § 26.105 may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12935, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.106 Marking containers of beer.

Containers of beer of Puerto Rican manufacture which are to be shipped to the United States must be marked with the name of the brewer; the serial number, capacity, and size of the container; the kind of beer; and the serial number of the withdrawal permit, Form 487B, prefixed by the number of such form, e.g., ''487B–61–3.''

ARTICLES

### § 26.107 Taxable status.

Articles of Puerto Rican manufacture which are to be shipped to the United States and which are not exempt fom tax under the provisions of § 26.36 are subject, under section 7652(a) to a tax equal to the tax imposed by the internal revenue laws of the United States. If such articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Such articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. A formula covering the manufacture of each article shall be filed by the manufacturer in accordance with subpart D of this part.

[T.D. ATF–62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

### § 26.108 Application for permit, TTB Form 5110.51 and/or Form 2900.

(a) *Distilled spirits.* Where distilled spirits of Puerto Rican manufacture are to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 5110.51, in accordance with the applicable provisions of § 26.78.

(b) *Wine and/or beer.* Where wine and/or beer of Puerto Pican manufacture is to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 2900, in accordance with the applicable provisions of §§ 26.93 and/or 26.102. Wine and beer may be included in the same application.

(c) *Approval of applications.* The Secretary, or his delegate, shall approve and dispose of the applications in the manner prescribed in §§ 26.78, 26.93, and/or § 26.102, as the case may be.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.109 Taxpayment.

(a) *Distilled spirits.* The tax on distilled spirits contained in articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), shall be computed in accordance with § 26.79 and paid in accordance with the applicable provisions of §§ 26.80, 26.81, and 26.111 through 26.113.

(b) *Wine.* The tax on wine used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5041, shall be computed in accordance with § 26.94 and paid in accordance with the applicable provisions of §§ 26.95, 26.96, and 26.111 through 26.113.

(c) *Beer.* The tax on beer used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5051, shall be computed in accordance with § 26.103 and paid in accordance with the applicable provisions of §§ 26.104, 26.105, and 26.111 through 26.113.

[T.D. ATF–62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### § 26.110 Release of articles or liquors.

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of TTB Form 5110.51 or Form

2900 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25, and remittance, the revenue agent shall execute his report of release on TTB Form 5110.51 or Form 2900 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of TTB Form 5110.51 or Form 2900, and any package gauge record as provided in § 26.164a, to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy. A permit shall be obtained as provided in §§ 26.114 through 26.116 before the articles manufactured from such liquors may be shipped to the United States.

(Approved by the Office of Management and Budget under control number 1512–0497)

[T.D. ATF–198, 50 FR 8550, Mar. 1, 1985, as amended by T.D. ATF–251, 52 FR 19338, May 22, 1987; T.D. ATF–277, 53 FR 45268, Nov. 9, 1988. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

PAYMENT OF TAX BY RETURN

### § 26.111 General.

All taxes imposed by 26 U.S.C. 7652(a), and which, under the provisions of this part, are paid in Puerto Rico, shall be paid and collected on the basis of a tax return as provided in this subpart. Any tax which has been paid in accordance with the provisions of this part in effect at the time of such payment, and before provision was made in the part for payment of such tax by return, shall be deemed to have been prepaid as prescribed in this part.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55852, Sept. 28, 1979; T.D. ATF–277, 53 FR 45268, Nov. 9, 1988]

### § 26.112 Returns for deferred payment of tax.

(a) *Returns.* The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1), 5041, or 5051), the payment of which has been deferred under the provisions of §§ 26.80, 26.95 or 26.104 of this part, shall be paid pursuant to a return on TTB Form 5000.25 prepared in accordance with the instructions on the form.

(b) *Return periods.* (1) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means the taxpayer was not liable for more than $50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

*Taxpayer.* A *taxpayer* is a person who is liable for excise tax under 26 U.S.C. 7652 under the same Employer Identification Number as defined in 26 CFR 301.7701–12.

(2) *Semimonthly return period.* Except in the case of a taxpayer who qualifies for, and chooses to use, quarterly return periods as provided in paragraph (b)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods shall run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (e) of this section.

(3) *Quarterly return period.* Effective January 1, 2006, a taxpayer who reasonably expects to be liable for not more than $50,000 in taxes imposed by 26 U.S.C. 7652 for the current calendar year, and who was liable for not more than $50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds $50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of semimonthly period in which that date occurs.

(c) *Filing.* (1) The original of TTB Form 5000.25, with remittance covering

the full amount of the tax, shall be filed with the appropriate TTB officer not later than the 14th day after the last day of the return period except as provided by paragraph (d) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday, except as provided by paragraph (d) of this section.

(2) The tax shall be paid in full by remittance at the time the return is filed, unless the proprietor is required to make remittances by electronic fund transfer in accordance with § 26.112a.

(3) The remittance may be in any form that is authorized to be accepted under the provisions of § 70.61 of this chapter.

(4) When the return and remittance are delivered by U.S. mail to the office of the appropriate TTB officer, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery.

(d) *Special September rule for taxes due by semimonthly return.* (1) *General.* The second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 16–26, no later than September 29. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(2) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 26.112a, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 16–25, no later than September 28. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 26–30, no later than October 14.

(3) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (d)(1) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (d)(2) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(4) *Last day for payment.* If the required due date for taxpayment for the periods September 16–25 or September 16–26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(e) *Default.* Where a taxpayer has defaulted in any payment of tax under this section, during the period of such default and until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment of tax under this section, the tax shall be prepaid by such taxpayer in accordance with the provisions of § 26.113. During such period, distilled spirits, wine, or beer shall not be released from the proprietor's bonded premises before the proprietor has paid the tax thereon. In the event of default, the appropriate TTB officer shall immediately notify the Secretary and the revenue agent at the premises that tax is to be prepaid until further notice, and upon a finding that the revenue will not be jeopardized by resumption of deferred payment

or tax under this section, the appropriate TTB officer shall notify the Secretary and the revenue agent that deferred payment may be resumed.

(Approved by the Office of Management and Budget under control number 1512–0497)

(Aug. 16, 1954, Ch. 736, 68A Stat. 775, (26 U.S.C. 6301); June 29, 1956, Ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF–277, 53 FR 45268, Nov. 9, 1988, as amended by T.D. ATF–301, 55 FR 47658, Nov. 14, 1990; T.D. ATF–365, 60 FR 33674, June 28, 1995; T.D. ATF–451, 66 FR 21669, May 1, 2001. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB–41, 71 FR 5604, Feb. 2, 2006]

### § 26.112a Payment of tax by electronic fund transfer.

(a) *General.* (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT) of such taxes during the succeeding calendar year. Payment by cash, check, or money order, of distilled spirits taxes, wine taxes, or beer taxes, as described in § 26.112, is not authorized for a taxpayer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on each type of product for which taxes are paid in accordance with this subpart, taxable withdrawals from premises in the United States, and importation during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises at which tax liabilities are incurred by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(3) A taxpayer who is required by this section to make remittances by EFT, shall make a separate EFT remittance and file a separate tax return, for each premises from which distilled spirits, wine, or beer is withdrawn upon determination of tax.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter during the previous calendar year, shall notify, in writing, the appropriate TTB officer. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer's bank to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account

by no later than the close of business on the last day for filing the return, prescribed in § 26.112 or § 26.113. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, less than five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or less than five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter during the preceding calendar year, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 26.112. Upon filing the first return on which the taxpayer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the taxpayer shall notify the appropriate TTB officer by attaching a written notification to the tax return, stating that no taxes are due by EFT, because the tax liability during the preceding calendar year was less than five million dollars, and that the remittance shall be filed with the tax return.

(c) *Remittance.* (1) Each taxpayer shall show on the tax return, information about remitting the tax for that return by EFT and shall file the return with the appropriate TTB officer.

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer shall be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, any transfer data record furnished to the taxpayer, through normal banking procedures, will serve as the record of payment, and shall be retained as part of required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer an TTB Procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service.

(Approved by the Office of Management and Budget under control number 1512–0457)

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–185, 49 FR 37580, Sept. 25, 1984, as amended by T.D. ATF–245, 52 FR 532, Jan. 7, 1987; T.D. ATF–251, 52 FR 19339, May 22, 1987; T.D. ATF–262, 52 FR 47560, Dec. 15, 1987; T.D. ATF–277, 53 FR 45268, Nov. 9, 1988. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001; T.D. ATF–479, 67 FR 30798, May 8, 2002]

### § 26.113 Returns for prepayment of taxes.

(a) *General.* If a proprietor does not have an approved bond covering the deferred payment of taxes, or if such bond is in an insufficient penal sum, or if there is default by him in any payment of tax under this subpart, liquors shall not be released from bonded storage before the proprietor has paid the tax thereon.

(b) *Remittances.* Remittances submitted to cover prepayment of taxes under this subpart shall be in cash, United States postal money orders, certified checks, or cashier's checks.

(c) *Distilled spirits.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1) are to be paid before distilled spirits may be released for shipment, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, as prescribed in § 26.81.

(d) *Wine.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5041, are to

be paid before wine may be withdrawn from bonded storage, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in § 26.96.

(e) *Beer.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5051, are to be paid before beer may be withdrawn from bonded storage, the brewer shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in § 26.105.

(f) *Applicable procedures.* The procedures of § 26.112(c) with respect to returns delivered by United States mail shall apply to returns and remittances filed under the provisions of this section.

(Approved by the Office of Management and Budget under control number 1512–0497)

[20 FR 6077, Aug. 20, 1955]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.113, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

PERMIT TO SHIP LIQUORS AND ARTICLES

### § 26.114 Permit to ship required.

Before liquors and articles of Puerto Rican manufacture, upon which all internal revenue taxes have been paid or deferred as prescribed in this subpart, may be shipped to the United States, a permit to ship, Form 487B, must be obtained from the Secretary as provided in §§ 26.115 and 26.116.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.115 Application, Form 487B.

Application for permit to ship to the United States liquors and articles of Puerto Rican manufacture on which all taxes have been paid or deferred as prescribed in this subpart shall be made by the shipper on Form 487B, in sextuple. Each Form 487B will be given a serial number, by the applicant, beginning with ''1'' for the first day of January of each year and running consecutively thereafter to December 31, inclusive. This serial number will be prefixed by the last two digits of the calendar year, e.g. ''61–1.'' All copies of the form shall be delivered to the revenue agent for execution of his certification thereon and forwarding of all copies to the Secretary within sufficient time to allow for the issuance of the permit and customs inspection as provided in § 26.116.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.116 Issuance of permit, Form 487B, and customs inspection.

If the application has been properly executed and the Secretary, or his delegate, finds that all internal revenue taxes imposed under 26 U.S.C. 7652(a), have been computed under the provisions of this part and have been paid or, pursuant to a sufficient bond, have been deferred under the applicable provisions of this part, he will execute his permit on all copies thereof, retain one copy of the form, return two copies to the shipper, and send three copies to the district director of customs in Puerto Rico. The shipper will submit the two copies of the Form 487B to the district director of customs at least six hours prior to the intended lading of the merchandise. The district director of customs will then inspect the merchandise covered by the Form 487B after which he will execute his certificate on each copy of Form 487B indicating all exceptions. If discrepancies appear indicating differences between the quantity covered by Form 487B and the quantity actually contained in the shipment or the improper tax payment of the merchandise, he will withhold release of the shipment and notify the Secretary of such discrepancies. Thereupon, such discrepancies must be corrected in the shipping documents and additional tax paid, if required, prior to release of the merchandise. The district director of customs, upon release of the merchandise for shipment, will retain one copy of the Form 487B, return two copies to the shipper, and send two copies to the district director of customs at the port of arrival in the United States, one of which should be mailed and the other dispatched on the vessel concerned for the guidance of the appropriate TTB officer who will handle the cargo. After the shipment

has been cleared by the district director of customs in Puerto Rico, the shipper shall retain one copy of the Form 487B and send one copy thereof, with other shipping documents, to the district director of customs at the port of arrival.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.116, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

PROCEDURE AT PORT OF ARRIVAL

### § 26.117 Action by carrier.

The carrier of the merchandise specified on the Form 487B shall, at the time of unlading at the port of arrival in the United States, segregate and arrange the cases of liquors or articles for convenient customs examination and will assume any expense incurred in connection therewith.

### § 26.118 Inspection by district director of customs at port of arrival.

On receipt of properly executed Form 487B from the shipper and the copies of Form 487B from the district director of customs in Puerto Rico, the district director of customs at the port of arrival shall inspect the merchandise to determine whether the quantity specified on the Form 487B is contained in the shipment. He will then execute his certificate on each copy of Form 487B received and indicate thereon any exceptions found at the time of discharge. The statement of exceptions should show the serial number of each case or other shipping container which sustained a loss, the quantity of liquor reported shipped in such container and the quantity lost. Losses occurring as the result of missing bottles, cases, or other containers should be listed separately from empty containers and containers which have sustained losses due to breakage. Where the statement is made on the basis of bottles missing or lost due to other cause, the number and size of bottles lost should be shown. If the district director of customs finds that the full amount of the taxes due has not been paid, he will require the difference due to be paid prior to release of the merchandise in accordance with the applicable provisions of this part. When the proper inspection of the merchandise has been effected, and any additional taxes found to be due on the liquors or articles collected, the merchandise will be released.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975. T.D. ATF–451, 66 FR 21669, May 1, 2001]

### § 26.119 Disposition of forms by district director of customs.

Two copies of the Form 487B will be forwarded to the appropriate TTB officer, and one copy of the form will be retained by the district director of customs and be available for inspection by appropriate TTB officers.

[ T.D. ATF–451, 66 FR 21669, May 1, 2001]

## Subpart F—Liquors and Articles Purchased by Tourists in Puerto Rico

### § 26.125 Taxable.

When liquors and articles subject to tax are brought into the United States by tourists, the tax thereon shall be paid as provided in this subpart.

### § 26.126 Taxpayment in Puerto Rico.

Liquors upon which all Federal internal revenue taxes have been paid in Puerto Rico may be brought into the United States for personal consumption without payment of additional taxes. When distilled spirits, wines, or beer are purchased by a tourist for consumption in the United States, the internal revenue tax due may be paid to the appropriate TTB officer, and an TTB receipt obtained, or the tax may be paid to the U.S. Customs authorities, who will issue a customs receipt. The tax on articles purchased by tourists may be paid in the same manner. The receipt received from the appropriate TTB officer or from the customs

officer shall be presented, as required, as evidence that the tax has been paid.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1358, as amended (26 U.S.C. 5061, 5205))

[T.D. ATF–206, 50 FR 23954, June 7, 1985, as amended by T.D. ATF–251, 52 FR 19339, May 22, 1987]

### § 26.128 Taxpayment at port of arrival.

If the internal revenue tax on liquors and articles is not paid in Puerto Rico, it shall be paid by the tourist at the port of arrival prior to release of the liquors or articles from customs custody. The tax may be paid to an appropriate TTB officer, and an TTB receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to an appropriate TTB officer, the director of customs will notify the appropriate TTB officer of the amount of tax due. On payment of the tax to the director of customs, or on submission of the TTB receipt for the tax, the director of customs will release the liquors or articles.

[T.D. ATF–251, 52 FR 19339, May 22, 1987, as amended by T.D. ATF–451, 66 FR 21669, May 1, 2001]

## Subpart G—Closures for Distilled Spirits From Puerto Rico

### § 26.135 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part, prior to shipment to the United States.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23954, June 7, 1985]

### § 26.136 Affixing closures.

Closures or other devices shall be securely affixed to containers having capacity of 1 gallon (3.785 liters) or less so as to leave a portion remaining on the container when it is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23954, June 7, 1985]

## Subpart H—Records and Reports of Liquors From Puerto Rico

### § 26.163 General requirements.

Except as provided in § 26.164, every person, other than a tourist, bringing liquor into the United States from Puerto Rico shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with part 31[1] of this chapter: *Provided*, That if the person who is responsible for release of the liquors from customs custody does not take physical possession of the liquors, he shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512–0352)

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

[T.D. ATF–2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 26.164 Proprietors of taxpaid premises.

Transactions involving the bringing of liquors into the United States from Puerto Rico by proprietors of distilled spirits plants in the United States qualified under the provisions of this chapter shall be recorded and reported

[1] (''Alcohol Beverage Dealers'')

in accordance with the regulations governing the operations of such premises in the United States.

[T.D. 6402, 24 FR 6090, July 30, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–198, 50 FR 8551, Mar. 1, 1985]

### § 26.164a Package gauge record.

When required in this part, with respect to Puerto Rican spirits, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction form and its serial number;

(c) The producer or rectifier (processor) of the spirits, and his name, address, and plant registration number; and

(d) For each package, the:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Tare;

(5) Net weight;

(6) Proof gallons; and

(7) Proof.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8551, Mar. 1, 1985]

### § 26.165 Certificate of effective tax rate computation.

(a) Where distilled spirits of Puerto Rican manufacture which contain eligible wine or eligible flavors are to be tax determined for shipment to the United States or are to be shipped to the United States without payment of tax for transfer from customs custody to TTB bond, the consignor shall prepare a certificate of effective tax rate computation showing the:

(1) The serial number of TTB Form 5110.31 or 5110.51;

(2) Elements necessary to compute the effective tax rate in accordance with § 26.79a as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(iii) Proof gallons of distilled spirits derived from each eligible flavor;

(3) Date of the statement of eligibility for each eligible flavor (see § 26.50a).

(4) Effective tax rate applied to the product.

(5) Signature and title of the consignor.

(b) If the spirits are tax determined for shipment to the United States, the proprietor shall retain the certificate for a period of not less than three years after the last tax determination to which the certificate is applicable. If the spirits are shipped to the United States for transfer from Customs custody to the bonded premises of a distilled spirits plant, the proprietor shall forward the original to the consignee distilled spirits plant in the United States and retain a copy for his files.

(Approved by Office of Management and Budget under control number 1512–0203)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1366, as amended (26 U.S.C. 5232); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18067, Apr. 30, 1990. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

## Subpart I—Claims for Drawback on Eligible Articles From Puerto Rico

SOURCE: T.D. ATF–263, 52 FR 46594, Dec. 9, 1987, unless otherwise noted.

### § 26.170 Drawback of tax.

Any person who brings eligible articles into the United States from Puerto Rico may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

### § 26.171 Special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, any person filing claim for drawback of tax on eligible articles brought into the United States from Puerto Rico shall pay special tax as required by 26 U.S.C. 5131. For purposes of special tax, subparts C and D of part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States and, each business location from which entry of eligible articles is caused or

effected shall be treated as a place of manufacture. If special tax is paid for any such business location under part 197 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF–379, 61 FR 31427, June 20, 1996; T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 26.172 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico and intending to file monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF–379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF–451, 66 FR 21669, May 1, 2001]

### § 26.173 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer must allow the drawback of taxes at a rate of $1 less than the lesser of $10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

(1) That the special tax has been paid;

(2) That the eligible articles brought into the United States on which drawback is claimed are fully tax paid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in Puerto Rico in compliance with an approved formula in accordance with § 26.51.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

(i) Name and type of each product;

(ii) Name and address of the manufacturer of each product;

(iii) Formula number;

(iv) Alcohol content of each product;

(v) Quantity of each product;

(vi) Proof gallons of distilled spirits contained in each product;

(vii) Date of entry of the eligible product into the United States, and

(viii) The serial number of each TTB Form 487–B (5170.7) covering such articles shipped to the United States.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the

quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512–0494)

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF–271, 53 FR 17559, May 17, 1988; T.D. ATF–379, 61 FR 31427, June 20, 1996; T.D. ATF–451, 66 FR 21669, May 1, 2001. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.174 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from Puerto Rico shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

(1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (c) of this section.

(c) *Evidence of taxpayment of distilled spirits.* All shipments of eligible articles from Puerto Rico to the United States shall be supported by the vendor's commercial invoice which must bear a certification as to taxpayment by the person who determined or paid the tax, and include the following information:

(1) The name and address of vendor;

(2) The number of the applicable invoice;

(3) The serial or package identification number of the container;

(4) Name, type, and formula number of the product;

(5) The kind of spirits, proof, and proof gallons in the container; and

(6) The serial number of each Form 487–B (5170.7) covering such articles shipped to the United States.

(d) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512–0494)

[T.D. ATF–263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF–451, 66 FR 21669, May 1, 2001]

## Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

SOURCE: T.D. ATF–199, 50 FR 9198, Mar. 1, 1985, unless otherwise noted. Redesignated by T.D. ATF–459, 66 FR 38550, July 25, 2001.

### § 26.191 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 person 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)

[T.D. ATF–199, 50 FR 9198, Mar. 1, 1985, T.D. ATF–199, 50 FR 20099, May 14, 1985]

### § 26.192 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.

### § 26.193 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 §§ 26.107 through 26.110.

(b) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, after the shipment is made, the chemist will immediately notify the shipper that the tax shall be paid immediately in accordance with § 26.113. The chemist will also notify the appropriate TTB officer.

[T.D. ATF–199, 50 FR 9198, Mar. 1, 1985, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.194 Detention of articles.

(a) Upon receiving a notification in accordance with § 26.193(b), the appropriate TTB officer 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 § 26.113, the appropriate TTB officer will release the article to the consignee.

[T.D. ATF–199, 50 FR 9198, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

## Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond

AUTHORITY: Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232).

SOURCE: T.D. ATF–62, 44 FR 71714, Dec. 11, 1979, unless otherwise noted.

### § 26.196 General.

Under the provisions of this subpart and § 26.86, distilled spirits brought into the United States from Puerto Rico in bulk containers may be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax, if any, imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof; and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to applicable provisions of part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody and the person bringing the spirits into the United States shall thereupon be relieved of liability for the tax.

[ T.D. ATF–62, 44 FR 71714, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.197 Furnishing formula to consignee.

Prior to the first shipment, the person shipping the spirits to the United

States shall furnish a reproduced copy of the approved formula covering such spirits to the appropriate TTB officer, and to the proprietor of each distilled spirits plant to receive the spirits.

(Approved by the Office of Management and Budget under control number 1512–0204)

[T.D. ATF–198, 50 FR 8551, Mar. 1, 1985, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001]

### §26.198 [Reserved]

### §26.199 Application and permit to ship, TTB Form 5110.31.

Before spirits of Puerto Rican manufacture may be shipped to the United States without payment of tax for withdrawal from customs custody and transfer to internal revenue bond, an application by the consignor on TTB Form 5110.31 for permit to ship must be approved by the Secretary. All copies of the application (original and five copies) shall be delivered to the revenue agent.

### §26.199a Action by revenue agent.

(a) *Gauge.* Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall record the quantity and proof of the spirits gauged on TTB Form 5110.31. If the spirits are in packages, the revenue agent shall prepare in sextuplicate a package gauge record according to §26.164a, attach the package gauge record to TTB Form 5110.31, and dispose of the form (and any attachments) according to the instructions thereon.

(b) *Sealing bulk conveyances.* When a shipment is made in a tank, van, or other bulk conveyance (other than barrels, drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent is such manner as will prevent unauthorized removal of spirits without detection.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8551, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### §26.199b Issuance and disposition of permit.

When the Secretary receives an application on TTB Form 5110.31 and he finds that the applicant is in compliance with law and regulations, he will execute the permit to ship on all copies of TTB Form 5110.31, retain one copy, and any accompanying package gauge record as provided in §26.164a, and return the remaining copies to the consignor who shall distribute them in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38551, July 25, 2001]

### §26.199c Action by carrier.

The carrier of the spirits specified on the TTB Form 5110.31 shall, at the time of unlading at the port of arrival in the United States, segregate and arrange the containers of spirits of convenient customs examination and shall assume any expense incurred in connection therewith.

### §26.199d Customs inspection and release.

On receipt of a properly executed TTB Form 5110.31 from the consignor, the customs officer at the port of arrival in the United States shall inspect the corresponding shipment of spirits:

(a) If a shipment is in a bulk conveyance, and:

(1) The seals are intact, he shall release the shipment; or

(2) If the seals are broken, he shall, before release of the spirits, affix customs seals.

(b) If a shipment in packages does not arrive in a sealed conveyance, the packages shall be inspected, and if it appears that any package has sustained a loss, the package shall be weighed and its new gross weight shall be entered in contrasting color on the package gauge record attached to the related TTB Form 5110.31. The serial numbers of any seals affixed by the customs officers shall be reported on TTB Form 5110.31 under remarks with an explanation and description of any evidence of loss. After completing his

inspection, the customs officer shall execute his certificate on each copy of TTB Form 5110.31 and show thereon any exceptions found at the time of his release for transfer of the spirits to internal revenue bond. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall then release the spirits to the consignee's representative and distribute all forms in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8552, Mar. 1, 1985]

### § 26.199e [Reserved]

### § 26.199f Consignee premises.

(a) *General.* When Puerto Rican spirits are received from customs custody under the provisions of this subpart, the consignee proprietor shall execute the certificate of receipt on TTB Form 5110.31 and examine all containers for evidence of loss. If it appears that spirits were lost by theft or unusual event, the proprietor shall determine the quantity of spirits lost and report the loss according to 27 CFR 19.562.

(b) *Packages.* Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge.

(c) *Distribution of forms.* The proprietor shall keep and send copies according the instructions on the form.

(Approved by the Office of Management and Budget under control numbers 1512–0200 and 1512–0250)

[T.D. ATF–198, 50 FR 8552, Mar. 1, 1985, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001]

## Subpart J—Products Coming Into the United States From the Virgin Islands

### § 26.200 Taxable status.

(a) Liquors coming into the United States from the Virgin Islands, except as provided in § 26.201, are subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like liquors. Articles coming into the United States from the Virgin Islands, except as provided in § 26.201, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) The excise taxes collected on distilled spirits and articles containing distilled spirits shall be deposited into the Treasury of the Virgin Islands only if at least 92 percent of the alcoholic content of such product is rum. The amount deposited into the Treasury of the Virgin Islands shall not exceed the lesser of $10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of such distilled spirits or article containing distilled spirits coming into the United States. Such excise tax payments to the Treasury of the Virgin Islands will be reduced by one percent and the estimated amount of refunds or credits, and may be further reduced by certain amounts deposited to the U.S. Treasury as miscellaneous receipts. The moneys so transferred and paid over shall constitute a separate fund in the Treasury of the Virgin Islands, and may be expended as the Virgin Islands legislature may determine.

(c) Except for products described in 26 U.S.C. 7652(c), no excise taxes shall be deposited into the Treasury of the Virgin Islands if an excise tax subsidy is provided by the Virgin Islands that is of a kind different from, or in an amount per value or volume of production greater than, any subsidy offered by the Virgin Islands to industries manufacturing products not subject to Federal excise tax.

(Sec. 2682, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 7652))

[T.D. ATF–175, 49 FR 20804, May 16, 1984, as amended by T.D. ATF–206, 50 FR 15888, Apr. 23, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.201 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.

[T.D. ATF–199, 50 FR 9199, Mar. 6, 1985]

### §26.201a Production in the Virgin Islands for tax-free shipment to the United States.

(a) *Authority of the Governor to issue regulations.* The Governor of the Virgin Islands, or his duly authorized agents, are authorized to issue or adopt such regulations (and to approve such bonds, and to issue, suspend, or revoke such permits, as may be required by such regulations) as are necessary to insure that:

(1) Industrial spirits produced or manufactured in the Virgin Islands and shipped to the United States free of tax for the purposes authorized in 26 U.S.C. 5214(a) (2) and (3);

(2) Denatured spirits manufactured in the Virgin Islands for shipment to the United States free of tax, and

(3) Products manufactured in the Virgin Islands with denatured spirits, for shipment to the United States free of tax, conform in all respects to the requirements of law and this chapter imposed on like products of domestic manufacture.

(b) *Law and regulations applicable.* Regulations having been issued by the Governor of the Virgin Islands and concurred in by the Secretary of the Treasury of the United States to govern the production, warehousing, and denaturation of spirits and the use of denatured spirits in the manufacture of products for shipment to the United States free of tax, such regulations are applicable in the Virgin Islands and the Virgin Islands are hereby exempted from

(1) All provisions of 26 U.S.C. chapter 51, with the exception of 26 U.S.C. 5314(b) and 5687; and

(2) The provisions of this chapter in respect of the production, bonded warehousing, denaturation, and withdrawal of distilled spirits and the use of denatured spirits in the United States:

*Provided*, That such exemption shall be effective only to the extent that any amendments or revisions of the regulations issued by the Governor of the Virgin Islands, or his duly authorized agents, are concurred in by the Secretary of the Treasury of the United States or his delegate. Otherwise, all provisions of law as provided in 26 U.S.C. 5314(b), and the provisions of this chapter in respect of the production, bonded warehousing, denaturation, and withdrawal from bond of distilled spirits and denatured spirits and the use of denatured spirits in the manufacture of products shall extend to and apply in the Virgin Islands (i) in respect of the production, bonded warehousing, and withdrawal of spirits for shipment to the United States free of tax for the purposes authorized in 26 U.S.C. 5214(a) (2) and (3), and (ii) in respect of the production, bonded warehousing, and denaturation of spirits, and to the withdrawal and use of denatured spirits, where the denatured spirits or products containing denatured spirits are to be shipped to the United States free of tax.

[T.D. 6402, 24 FR 6090, July 30, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55853, Sept. 28, 1979; T.D. ATF–198, 50 FR 8552, Mar. 1, 1985]

### § 26.201b [Reserved]

### § 26.201c Shipments of bulk distilled spirits to the United States without payment of tax.

Bulk distilled spirits may be brought into the United States from the Virgin Islands without payment of tax for transfer from customs custody to the bonded premises of a distilled spirits plant qualified under part 19 of this chapter. Such shipments are subject to the provisions of subpart Oa.

[T.D. ATF–62, 44 FR 71715, Dec. 11, 1979]

### § 26.202 Requirements of the Federal Alcohol Administration Act.

Every person, except an agency of a State or a political subdivision thereof or any officer or employee of any such agency, bringing liquors into the United States from the Virgin Islands for nonindustrial use must obtain an importer's basic permit therefor and file with the district director of customs at the port of entry a certified or photostatic copy thereof, and every person and any agency of a State or political subdivision thereof or any officer or employee of such agency, bringing liquors into the United States from the Virgin Islands for nonindustrial use must file with the district director of customs at the port of entry a certificate of label approval, in accordance with the requirements of the Federal Alcohol Administration Act and regulations issued pursuant thereto. Tourists bringing liquors into the United States for personal or other noncommercial use are not subject to the provisions of the Federal Alcohol Administration Act or regulations issued pursuant thereto. (Parts 1, 4, 5, and 7 of this chapter)

(Secs. 3, 5, 49 Stat. 978, as amended, 981, as amended; 27 U.S.C. 203, 205)

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For Federal Register citations affecting § 26.202, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 26.203 Containers of 1 gallon (3.785 liters) or less.

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of subpart P of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374 (26 U.S.C. 5301))

[T.D. ATF–34, 41 FR 46864, Oct. 26, 1976]

### § 26.203a Containers in excess of 1 gallon (3.785 liters).

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity in excess of 1 gallon (3.785 liters), are required to be marked in accordance with customs regulations (19 CFR chapter I).

[T.D. 6695, 28 FR 12936, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46864, Oct. 26, 1976; T.D. ATF–206, 50 FR 23955, June 7, 1985]

### § 26.204 Regauge.

Distilled spirits withdrawn from insular bonded warehouses for shipment to the United States may be gauged at the time of withdrawal by an insular gauger. When such gauges are made, a record of gauge shall be prepared by the insular gauger showing the name of the distiller; and the serial number, the proof of the spirits, and the wine and proof gallon contents of each package gauged. The report of gauge shall be attached to the certificate prescribed in § 26.205.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8552, Mar. 1 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.204a Verification of eligible wines and eligible flavors.

(a) Any person who, after December 1, 1990, brings into the United States from the Virgin Islands any distilled spirits on which the tax is to be paid or determined at an effective tax rate based in part on the alcohol content derived from eligible flavors or eligible wines shall, before the first tax determination at that rate, request and receive a statement of eligibility for each

wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the person bringing in the distilled spirits shall submit to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample of each distilled spirits, wine and flavor used in the product;

(2) A statement of composition of each flavor, listing—

(i) The name and percentage of alcohol by volume of the flavor; and

(ii) The name and quantity of each ingredient used in the manufacture of the flavor; and

(3) A statement of the kind and alcoholic content of each wine.

(Approved by Office of Management and Budget under control number 1512–0352)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18067, Apr. 30, 1990, as amended by T.D. TTB–44, 71 FR 16944, Apr. 4, 2006]

### § 26.205 Certificate.

(a) Every person bringing liquors or articles under this part into the United States from the Virgin Islands, except tourists, shall obtain a certificate in the English language from the manufacturer for each shipment showing the following information:

(1) The name and address of the consignee.

(2) The kind and brand name.

(3) The quantity thereof as follows—

(i) If distilled spirits, the proof gallons or liters and degree of proof;

(ii) If wine, the taxable grade and wine gallons;

(iii) If beer, the gallons (liquid measure) and the percentage of alcohol by volume; and

(iv) If articles, the kind, quantity, and proof of the liquors used therein.

(4) For liquors manufactured under a formula—

(i) The number and date of the approved formula;

(ii) A declaration that the liquors have been manufactured in accordance with the approved formula; and

(iii) The name and address of the person filing the formula.

(5) The name and address of the producer.

(6) For liquors and articles containing liquors produced outside of the Virgin Islands, the country of origin for each such liquor.

(7) For distilled spirits, a certification by the insular gauger as to whether they were regauged when withdrawn from the insular bonded warehouse and, if regauged, whether they were at the time of withdrawal at the proof indicated on the attached record of gauge.

(8) For distilled spirits which contain eligible wine or eligible flavors, the effective tax rate applied to the product and the elements necessary to compute the effective tax rate in accordance with § 26.262a as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each;

(iii) Proof gallons of distilled spirits derived from eligible flavors; and

(iv) On or after December 1, 1990, the name of the manufacturer, formula number from TTB F 5530.5 (1678) or 5150.19 and date of approval or the date of the statement of eligibility for each eligible flavor (See § 26.204a); and

(v) After December 1, 1990, the date of the statement of eligibility for each eligible wine.

(b) The person bringing the liquors or articles into the United States shall file the certificate and record of gauge with the district director of customs at the port of entry, at the time of entry summary, as provided in §§ 26.260 and 26.302.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1366, as amended (26 U.S.C. 5232); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18067, Apr. 30, 1990. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.206 Marking packages and cases.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled

spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the manufacturer;

(b) The brand name and kind of liquor; and

(c) The wine and proof gallon contents; or, for bottles filed according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits.

[T.D. ATF–43, 42 FR 30836, June 17, 1977]

### § 26.207 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed, obscured or obliterated before the contents thereof have been removed.

[T.D. ATF–198, 50 FR 8552, Mar. 1, 1985]

### § 26.209 Samples.

The appropriate TTB officer may require samples of liquors and articles to be submitted whenever desired for laboratory analyses in order to determine the rate of tax applicable thereto.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

SPECIAL (OCCUPATIONAL) TAXES

### § 26.210 Liquor dealer's special taxes.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person bringing liquors into the United States from the Virgin Islands, who sells, or offers for sale, such liquors shall file Form 5630.5 with TTB in accordance with the instruction on the form, and pay special occupational tax as a wholesale dealer in liquor or as a retail dealer in liquor, in accordance with the laws and regulations governing the payment of such special taxes (part 31 of this chapter).

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340 as amended, 1343 as amended, 1344 as amended (26 U.S.C. 5111, 5112, 5121, 5122))

[T.D. ATF–70, 45 FR 33981, May, 21, 1980, as amended by T.D. ATF–251, 52 FR 19339, May 22, 1987; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005; T.D. TTB–36, 70 FR 62246, Oct. 31, 2005]

### § 26.211 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 26.210(b), every person bringing distilled spirits into the United States from the Virgin Islands, who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold, or offered for sale, and must file return and pay occupational tax as provided in § 26.210(a). During the suspension period, every such person must register as provided in § 26.210(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

[T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

## Subpart K—Formulas for Products From the Virgin Islands

SOURCE: T.D. ATF–62, 44 FR 71715, Dec. 11, 1979, unless otherwise noted.

### § 26.220 Formulas for liquors.

(a) *Distilled spirits products.* Persons in the Virgin Islands who ship distilled spirits beverage products to the United States shall comply with the formula requirements of part 5 of this chapter. If any product contains liquors made outside of Virgin Islands, the country of origin for each such liquor shall be

stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 5110.38, in accordance with § 26.224.

(b) *Wine.* Persons in the Virgin Islands who ship wine to the United States shall comply with the formula requirements of part 240 of this chapter. If any wines contains liquors made outside of the Virgin Islands, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 698 Supplemental, in accordance with § 26.224.

[T.D. ATF–62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF–198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.221 Formulas for articles, eligible articles and products manufactured with denatured spirits.

(a) *Formulas for articles and eligible articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, and the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine. Formulas and samples for eligible articles are required in accordance with subpart F of part 17 of this chapter.

(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 TTB Form 1479–A or 27–B Supplemental.

(c) *Formulas required.* Formulas required by this section shall be submitted on Form 5150.19, except that formulas for eligible articles shall be submitted on Form 5154.1 (formerly 1678). Formulas shall be submitted in accordance with § 26.224. Any formula for an eligible article approved on Form 5150.19 prior to October 23, 1986, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula.

(Approved by the Office of Mangement and Budget under control number 1512–0494)

[T.D. ATF–62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF–199, 50 FR 9199, Mar. 6, 1985; T.D. ATF–263, 52 FR 46595, Dec. 9, 1987; T.D. ATF–379, 61 FR 31427, June 20, 1996. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.222 Still wines containing carbon dioxide.

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the appropriate TTB officer. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the

type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in triplicate to the appropriate TTB officer, who shall retain one copy, forward one copy to the Commissioner of Finance of the Virgin Islands, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by insular agents.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C 5041))

[T.D. ATF–62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984]

### § 26.223 Changes of formulas.

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

### § 26.224 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed TTB form. The applicant shall maintain copies of approved formulas available for examination by insular agents.

[T.D. ATF–451, 66 FR 21670, May 1, 2001]

### § 26.225 Previously approved formulas.

Any formula approved on Form 27–B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27–B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the notice requirement of § 26.222 shall not apply.

[T.D. ATF–62, 44 FR 71715, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

## Subpart L—Closures for Distilled Spirits From the Virgin Islands

GENERAL

### § 26.230 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or determined under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

### § 26.231 Affixing closures.

Closures or other devices shall be securely affixed to containers having capacity of 1 gallon (3.785 liters) or less so as to leave a portion remaining on the container when it is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23955, June 7, 1985. Redesignated by T.D. ATF–459, 66 FR 38550, July 25, 2001]

## Subpart M—Procedure at Port of Entry From the Virgin Islands

### § 26.260 Certificate.

Persons (except tourists) bringing liquors or articles from the Virgin Islands into the United States shall file the certificate provided for in § 26.205 with the district director of customs at the port of entry in the United States.

[T.D. ATF–62, 44 FR 71716, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.261 Action by district director of customs.

The district director of customs will direct the proper customs gauger to determine the taxable quantity of liquors contained in the consignment by regauge or inspection and report the result thereof to the district director of customs. Upon receipt of such report

the district director of customs will refer to the certificate required by §26.205 covering the product to determine the rate of internal revenue tax applicable thereto. When the rate of tax applicable to the product has been ascertained, the tax due on the consignment will be determined according to §§26.262 through 26.265.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §26.261, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### §26.262 Determination of tax on distilled spirits.

(a) If the certificate required by §26.205 covers distilled spirits, and the distilled spirits are not being transferred under subparts O or Oa of this part, the tax imposed by 26 U.S.C. 7652 which provides for a tax equal to the tax imposed by 26 U.S.C. 5001 will be collected on each proof gallon, and fractional part thereof, contained in the shipment.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2 ½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with §26.262a. The effective tax rate established will be applied to each withdrawal or other disposition of the distilled spirits within the United States.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010), Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF–297, 55 FR 18068, Apr. 30, 1990. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### §26.262a Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multipled by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

[1] Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the total proof gallons in the batch (100.9 − (2½%)×3,371.8=16.6).

BATCH RECORD

| | |
|---|---|
| Distilled spirits | 2249.1 proof gallons. |
| Eligible wine (14% alcohol by volume). | 2265.0 wine gallons. |

BATCH RECORD—Continued

| | |
|---|---|
| Eligible wine (19% alcohol by volume). | 1020.0 wine gallons. |
| Eligible flavors | 100.9 proof gallons. |

$$\frac{2249.1(\$13.50)+2265.0(\$1.07)+1020(\$1.57)+16.6^{1}(\$13.50)}{2249.1+100.9+(2265.0\times.28)+(1020\times.38)}=$$

$$\frac{\$30{,}362.85+\$2{,}423.55+\$1{,}601.40+\$224.10}{2{,}350.0+634.2+387.6}=\frac{\$34{,}611.90}{3{,}371.8}=\$10.27,\ \text{the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18068, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52741, Dec. 21, 1990]

### § 26.263 Determination of tax on beer.

If the certificate prescribed in § 26.205 covers beer, the beer tax will be collected on the basis of the number of barrels of 31 gallons each, or fractional parts thereof, contained in the shipment.

(68A Stat. 611, as amended; 26 U.S.C. 5051)

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.264 Determination of tax on wine.

If the certificate prescribed in § 26.205 covers wine, the wine tax will be collected at the rates imposed by section 5041, Internal Revenue Code, as amended.

(68A Stat. 609, as amended; 26 U.S.C. 5041)

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.265 Determination of tax on articles.

Where articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. The quantities and kinds of liquors will be shown on the certificate prescribed in § 26.205.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001, 5007))

[T.D. ATF–62, 44 FR 71717, Dec. 11, 1979. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.266 Tax payment.

The internal revenue tax on liquors (except spirits transferred under subparts O or Oa of this part) and articles coming into the United States from the Virgin Islands shall be paid to the district director of customs at the port of entry, as provided by customs regulations. (19 CFR Ch. I)

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–198, 50 FR 8554, Mar. 1, 1985]

### § 26.267 Payment of tax by electronic fund transfer.

(a) Each person bringing liquors and articles into the United States from the Virgin Islands who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under

this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT), as defined in paragraph (c) of this section, of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for a person bringing liquors and articles into the United States from the Virgin Islands who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on all taxable withdrawals from premises in the United States and importations (including products of the same tax class brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted.

(b) For the purposes of this section, a ''person'' includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one person for the purpose of determining who is required to make remittances by EFT.

(c) Electronic fund transfer or EFT means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer of magnetic tape, so as to order, instruct, or authorize a financial institution to either debit or credit an account, in accordance with procedures established by the U.S. Customs Service.

(d) Each person who is required by this section to make remittances by EFT shall make the EFT remittance in accordance with the requirements of the U.S. Customs Service.

(Approved by the Office of Management and Budget under Control Number 1512–0457)

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–245, 52 FR 532, Jan. 7, 1987, as amended by T.D. ATF–479, 67 FR 30798, May 8, 2002]

## Subpart N—Records and Reports of Liquors From the Virgin Islands

RECORD AND REPORT OF LIQUORS BROUGHT INTO THE UNITED STATES

### § 26.272 General requirements.

Except as provided in § 26.273, every person, other than a tourist, bringing liquors into the United States from the Virgin Islands shall keep such records and render reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provisions of part 31 of this chapter. Any importer who is responsible for release of the liquors from customs custody and who does not take physical possession of the liquors shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512–0352)

(72 Stat. 1342, 1345; 26 U.S.C. 5114, 5124)

[T.D. ATF–2, 37 FR 22739, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984. Redesignated and amended by T.D. ATF–459, 66 FR 38552, July 25, 2001; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 26.273 Proprietors of taxpaid premises.

Transactions involving the bringing of liquors into the United States from the Virgin Islands by proprietors of distilled spirits plants in the United States qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of such premises in the United States.

[T.D. 6478, 25 FR 6203, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.273a Transfer record.

The transfer record for Virgin Islands spirits prescribed in § 26.301 shall show the:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with ''1'' each January 1;

(c) Name of the proprietor and distilled spirits plant number to which consigned;

(d) Name and address of the consignor;

(e) Kind of spirits;

(f) Name of the producer;

(g) Age (in years, months and days) of the spirits;

(h) Proof of the spirits;

(i) Type and serial number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512–0250)

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF–198, 50 FR 8554, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.273b Package gauge record.

When required in this part with respect to Virgin Islands spirits, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number;

(c) The producer, his name and address; and

(d) For each package, the:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Tare;

(5) Net weight;

(6) Proof gallons; and

(7) Proof.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8554, Mar. 1, 1985]

## FILING AND RETENTION OF RECORDS AND REPORTS

### § 26.275 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate TTB or Customs officers desiring to examine the files or delay in the timely submission of documents.

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, either loose-leaf or book records may be maintained for the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills or lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001]

### § 26.276 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part shall be retained for not less than three years,

and during this period shall be available, during business hours, for inspection and copying by appropriate TTB or customs officers. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5124, 5146, 5207, 5555))

[T.D. ATF–50, 43 FR 20494, May 12, 1978, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001]

### § 26.277 [Reserved]

## Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

SOURCE: T.D. ATF–199, 50 FR 9199, Mar. 6, 1985, unless otherwise noted. Redesignated by T.D. ATF–459, 66 FR 38550, July 25, 2001.

### § 26.291 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 § 26.292 through 26.294 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 §§ 26.292 through 26.294 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 §§ 26.295 through 26.296 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 §§ 26.295 through 26.296 and regulations issued by the Governor of the Virgin Islands. These products are also subject to the requirements of § 26.221 of this part.

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

SHIPMENT OF INDUSTRIAL SPIRITS AND SPECIALLY DENATURED SPIRITS

### § 26.292 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.

### § 26.293 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.

### § 26.294 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

### § 26.295 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.

### § 26.296 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

### § 26.297 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.

## Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond

AUTHORITY: Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232).

SOURCE: T.D. ATF–62, 44 FR 71717, Dec. 11, 1979, unless otherwise noted.

### § 26.300 General.

Distilled spirits brought into the United States from the Virgin Islands in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if 185 degrees or more of proof, and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the provisions of part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the person bringing the spirits into the United States shall thereupon be relieved of his liability for such tax.

### § 26.301 Preparation of transfer record.

The person bringing spirits into the United States from the Virgin Islands under this subpart shall prepare a transfer record, in triplicate, according to § 26.273a, and present the record to the customs officer responsible for inspection and release of the spirits. A separate transfer record shall be prepared for each conveyance.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8555, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.302 Gauge and certification.

(a) *Gauge.* If Virgin Islands spirits to be transferred from customs custody to internal revenue bond as provided in this subpart are not gauged by an insular gauger at the time of their withdrawal from an insular bonded warehouse, as provided in § 26.204 of this chapter, the insular consignor shall effect a gauge of each bulk container and shall prepare a record of such gauge, in duplicate, and attach both copies to the certificate required by § 26.205 of this chapter. If the gauge is made by the insular gauger his record of gauge shall be prepared in duplicate and both copies shall be attached to the certificate.

(b) *Certification.* The certification prescribed by § 26.205 of this chapter shall be prepared in duplicate if the Virgin Islands spirits are to be transferred from customs custody to internal revenue bond. Both copies of the certificate, with the applicable record of gauge attached, shall be filed with the district director of customs at the port of entry. The original of the certificate and related record of gauge shall be attached by the customs officer to the original of the transfer record received as provided in § 26.301 from the importer.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8555, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.303 Customs inspection and release.

The customs officer shall not release distilled spirits under this subpart until he inspects the spirits, and, if it appears that losses in transit were sustained from any container, he shall

gauge the spirits in such container. If the spirits are in a bulk conveyance, the customs officer shall record the elements of his gauge on the transfer record, or, if the spirits are in packages, on the gauge record required by § 26.302, and attach it to the transfer record. The customs officer shall also record on the transfer record the port of entry, carrier identification, and warehouse entry number. When the consignee has complied with all customs requirements, the customs officer shall release the spirits for transfer to the distilled spirits plant, by dating and signing the transfer record with his title the statement: ''To the best of my knowledge the information hereon is accurate and the spirits are released''. The customs officer shall retain a copy of the transfer record and any attachment, forward a copy of the transfer record and any attachments to the appropriate TTB officer, and give the original of the transfer record with any attachments to the consignee.

[T.D. ATF–198, 50 FR 8555, Mar. 1, 1985. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.304 Bulk conveyances to be sealed.

When a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank, tank barge, cargo container, tank car, tank truck, or similar bulk conveyance, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

### § 26.305 Receipt by consignee.

Proprietors of distilled spirits plants who receive Virgin Islands spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on TTB Form 5100.16 to receive Virgin Islands spirits from customs custody.

[T.D. ATF–198, 50 FR 8555, Mar. 1, 1985]

## Subpart Ob—Claims for Drawback on Eligible Articles From the Virgin Islands

SOURCE: T.D. ATF–263, 52 FR 46595, Dec. 9, 1987, unless otherwise noted.

### § 26.306 Drawback of tax.

Any person who brings eligible articles into the United States from the Virgin Islands may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

### § 26.307 Special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, any person filing claim for drawback of tax on eligible articles brought into the United States from the Virgin Islands shall pay special tax as required by 26 U.S.C. 5131. For purposes of special tax, subparts C and D of part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States, and each business location from which entry of eligible articles is caused or effected shall be treated as a place of manufacture. If special tax is paid for any such business location under part 17 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF–379, 61 FR 31427, June 20, 1996; T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

### § 26.308 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands and intending to file

monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF–379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF–451, 66 FR 21670, May 1, 2001]

### § 26.309 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer must allow the drawback of taxes at a rate of $1 less than the lesser of $10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

(1) That the special tax has been paid;

(2) That the eligible articles brought into the United States on which drawback is claimed are fully taxpaid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in the Virgin Islands in compliance with approved formulas in accordance with § 26.221.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

(i) Name and type of each product;

(ii) Name and address of the manufacturer of each product;

(iii) Formula number under which each product was manufactured;

(iv) Alcohol content of each product;

(v) Quantity of each product;

(vi) Proof gallons of distilled spirits contained in each product;

(vii) Date of entry of the eligible product into the United States; and

(viii) Evidence of taxpayment of distilled spirits in accordance with § 26.266.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512–0494)

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF–379, 61 FR 31427, June 20, 1996; T.D. ATF–451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.310 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from the Virgin Islands shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

(1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (e) of this section.

(c) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(d) *Evidence of taxpayment of distilled spirits.* Evidence of taxpayment of eligible articles (such as Customs Forms 7501 and 7505 receipted to indicate payment of tax) shall be maintained as evidence of taxpayment to support information required to be furnished in the supporting data filed with a claim.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512–0494)

[T.D. ATF–263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF–451, 66 FR 21669, May 1, 2001]

## Subpart P—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6818, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

### § 26.311 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46864, Oct. 26, 1976. Redesignated by T.D. ATF–459, 66 FR 38550, July 25, 2001]

### § 26.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47 or § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of subpart E of part 5 or part 19 of this chapter, may be brought into the United States for packaging distilled spirits as provided in part 19 of this chapter.

[T.D. ATF–34, 41 FR 46864, Oct. 26, 1976, as amended by T.D. ATF–62, 44 FR 71718, Dec. 11, 1979]

### § 26.314 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit TTB Form 5100.31 for approval prior to bringing such bottles into the United States. For empty bottles, the bottler shall obtain approval on TTB Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an

authentic model unless specifically requested to do so.

(b) *Approval.* Properly submitted TTB Forms 5100.31 to bring distinctive liquor bottles (filled) into the United States from Puerto Rico or the Virgin Islands, or, properly submitted TTB Forms 5100.31 to use distinctive liquor bottles (empty) which have been brought into the United States from Puerto Rico or the Virgin Islands, shall be approved provided such bottles are found by the appropriate TTB officer to—

(1) Meet the requirements of 27 CFR part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved TTB Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If TTB Form 5100.31 is disapproved, the applicant shall be notified of the appropriate TTB officer's decision and the reasons therefor. The applicant importer is responsible for furnishing a copy of the approved TTB Form 5100.31, including a photograph of the distinctive liquor bottle, to Customs officials at each affected port of entry where the merchandise is examined.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43950, Oct. 5, 1982, as amended by T.D. ATF–242, 51 FR 39526, Oct. 29, 1986; T.D. ATF–451, 66 FR 21670, May 1, 2001]

### § 26.315 [Reserved]

### § 26.316 Bottles not constituting approved containers.

The appropriate TTB officer is authorized to disapprove any bottle, including a bottle of less than 200 ml. capacity, for use as a liquor bottle which he determines to be deceptive. The Customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the appropriate TTB officer that such bottle is not and approved container for distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43950, Oct. 5, 1982]

### § 26.317 Bottles to be used for display purposes.

Empty liquor bottles may be brought into the United States and may be furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. Any paper strip used to seal the bottle shall be of solid color and without design or printing, except that a border or a design, formed entirely of the legend ''not genuine—for display purposes only'' is permissible. Records shall be kept of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

### § 26.318 Liquor bottles denied entry.

Filled liquor bottles not conforming to the provisions of this subpart shall be denied entry into the United States: *Provided,* That, upon letterhead application, in triplicate, the appropriate TTB officer may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of § 26.316, which, through unintentional error, do not conform to the provisions of this subpart, if such officer finds that such release will not afford jeopardy to the revenue.

[T.D. ATF–451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF–459, 66 FR 38550, 38552, July 25, 2001]

### § 26.319 Used liquor bottles.

The appropriate TTB officer may pursuant to letterhead application filed in triplicate, authorize an importer to receive liquor bottles assembled for him as provided in § 31.263 of this chapter. Used liquor bottles so received may be stored at any suitable location pending return to Puerto Rico or the Virgin Islands. Records shall be

kept of the receipt and disposition of such bottles.

[T.D. 6954, 33 FR 6818, May 4, 1968, as amended by T.D. 7006, 34 FR 2250, Feb, 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

## Subpart Q—Miscellaneous Provisions

### § 26.331 Alternate methods or procedures.

(a) *Application.* A person bringing liquors into the United States from Puerto Rico or the Virgin Islands who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file application, in triplicate, with the appropriate TTB officer. If such person has several places of business at which he desires to use such alternate method or procedure, a separate application shall be submitted for each. Each application shall:

(1) Specify the name, address, and permit number of the person to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate TTB officer shall determine whether the approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate TTB officer, may approve the alternate method or procedure if he finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the appropriate TTB officer. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. ATF–2, 37 FR 22739, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984]

# PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

## Subpart A—Scope of Regulations

Sec.
27.1 Imported distilled spirits, wines, and beer.
27.2 Forms prescribed.
27.3 Delegations of the Administrator.

## Subpart B—Definitions

27.11 Meaning of terms.

## Subpart C—Special (Occupational) Taxes

27.30 Special (occupational) tax.
27.31 Warehouse receipts covering distilled spirits.

## Subpart D—Tax on Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

27.40 Distilled spirits.
27.41 Computation of effective tax rate.

WINES

27.42 Wines.
27.42a Still wines containing carbon dioxide.

LIQUEURS, CORDIALS, AND OTHER COMPOUNDS AND PREPARATIONS

27.43 Liqueurs, cordials, and similar compounds.
27.44 Other compounds and preparations.

BEER

27.45 Rate of tax.

27.46 Computation of tax.

COLLECTION OF INTERNAL REVENUE TAXES

27.48 Imported distilled spirits, wines, and beer.
27.48a Payment of tax by electronic fund transfer.

EXEMPTION OF CERTAIN SAMPLES FROM INTERNAL REVENUE TAXES

27.49 Commercial samples of alcoholic beverages.

## Subpart E—General Requirements

PERMIT FOR IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

27.55 Federal Alcohol Administration Act permit.

PACKAGING AND MARKING OF DISTILLED SPIRITS

27.56 Distilled spirits containers of a capacity of not more than 1 gallon.
27.57 Containers in excess of 1 gallon.

LABELING OF DISTILLED SPIRITS

27.58 Containers of 1 gallon (3.785 liters) or less.

MARKING AND LABELING OF WINES AND BEER

27.59 Wines.
27.60 Beer.

CLOSURES FOR CONTAINERS OF DISTILLED SPIRITS

27.61 Containers of distilled spirits to bear closures.
27.62 Affixing closures.

EXEMPTIONS

27.74 Exemption from requirements pertaining to marks, bottles, and labels.
27.75 Samples of distilled spirits, wine, and beer for quality control purposes.

WINE AND FLAVORS CONTENT OF DISTILLED SPIRITS

27.76 Approval and certification of wine and flavors content.
27.77 Standard effective tax rate.

## Subparts F–G [Reserved]

## Subpart H—Importation of Distilled Spirits in Bulk

27.120 Persons authorized to receive distilled spirits imported in bulk.
27.121 Containers.

## Subpart I—Importer's Records and Reports

27.130–27.132 [Reserved]

RECORD AND REPORT OF IMPORTED LIQUORS

27.133 General requirements.
27.134 Proprietors of qualified premises.

FILING AND RETENTION OF RECORDS AND REPORTS

27.136 Filing.
27.137 Retention.

OTHER RECORDS

27.138 Transfer record.
27.139 Package gauge record.
27.140 Certification requirements for wine.

## Subparts J–K [Reserved]

## Subpart L—Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

27.171 General provisions.
27.172 Preparation of transfer record and package gauge record.
27.173 Inspection and release.
27.174 Tank cars and tank trucks to be sealed.
27.175 Receipt by consignee.

## Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax For Use of the United States

27.181 General.
27.182 Application and permit, Form 5150.33.
27.183 Use of permit, Form 5150.33.
27.184 Entry documents.
27.185 Customs release.

## Subpart N—Requirements for Liquor Bottles

27.201 Scope of subpart.
27.202 Standards of fill.
27.204 Distinctive liquor bottles.
27.205 [Reserved]
27.206 Bottles not constituting approved containers.
27.207 Bottles to be used for display purposes.
27.208 Liquor bottles denied entry.
27.209 Used liquor bottles.

## Subpart O—Miscellaneous Provisions

27.221 Alternate methods or procedures.

AUTHORITY: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5148, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

SOURCE: 20 FR 3561, May 21, 1955, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF–479, 67 FR 30799, May 8, 2002.

CROSS REFERENCE: For regulations with respect to distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands, see part 26 of this subchapter.

EDITORIAL NOTE: Nomenclature changes to part 27 appear by T.D. ATF–474, 67 FR 11231, Mar. 13, 2002, and T.D. ATF–479, 67 FR 30799, May 8, 2002.

## Subpart A—Scope of Regulations

### § 27.1 Imported distilled spirits, wines, and beer.

This part, ''Importation of Distilled Spirits, Wines, and Beer'', contains procedural and substantive requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, closing and labeling of containers and packages, and records and reports.

NOTE: Distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands are governed by the provisions of part 26 of this chapter.

[T.D. ATF–206, 50 FR 23955, June 7, 1985, as amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

### § 27.2 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including reports, returns, 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. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF–92, 46 FR 46921, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5963, Feb. 27, 1987; T.D. ATF–372, 61 FR 20725, May 8, 1996; T.D. ATF–474, 67 FR 11231, Mar. 13, 2002; T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

### § 27.3 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, Wines, and Beer. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

## Subpart B—Definitions

### § 27.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, and Beer.

*Beer.* Beer, ale porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

*Bonded premises—distilled spirits plant.* The premises of a distilled spirits

plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

*Bulk container.* Any container having a capacity of more than 1 gallon.

*Bulk distilled spirits.* The term ''bulk distilled spirits'' means distilled spirits in a container having a capacity in excess of 1 gallon.

*CFR.* The Code of Federal Regulations.

*Class 8 Customs bonded warehouse.* A class 8 customs bonded warehouse established under the provisions of Customs Regulations (19 CFR, chapter I).

*Customs officer.* Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not including wine as defined in this subpart.

*Distilled spirits plant.* An establishment qualified under the provisions of part 19 of this chapter for the production, storage, or processing of spirits, or for authorized combinations of such operations.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*Effective tax rate.* The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 5001 is paid or determined.

*Eligible flavor.* A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

*Eligible wine.* Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

*Gallon or wine gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*Importer.* Any person who imports distilled spirits, wines, or beer into the United States.

*Kind.* As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue.

*Person.* An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

*Proof.* The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

*Proof gallon.* A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

*United States.* ''United States'' includes only the States and the District of Columbia.

*U.S.C.* The United States Code.

*Wine.* (a) Still wine, including vermouth or other aperitif wine, artificial or imitation wines or compounds sold as still wines, champagne or sparkling wine, and artificially carbonated wine, and (b) flavored or sweetened fortified or unfortified wines, by whatever

name sold or offered for sale, containing not over 24 percent alcohol by volume.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 7805 (68A Stat. 917, as amended), and in 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF–48, 43 FR 13552, Mar. 31, 1978, as amended by T.D. ATF–50, 43 FR 37180, Aug. 22, 1978; 44 FR 55853, Sept. 28, 1979; T.D. ATF–62, 44 FR 71718, Dec. 11, 1979; T.D. ATF–114, 47 FR 43950, Oct. 5, 1982; T.D. ATF–198, 50 FR 8555, Mar. 1, 1985; T.D. ATF–206, 50 FR 23955, June 7, 1985; T.D. ATF–251, 52 FR 19339, May 22, 1987; T.D. ATF–297, 55 FR 18069, Apr. 30, 1990; T.D. ATF–398, 63 FR 44784, Aug. 21, 1998; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002; T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

## Subpart C—Special (Occupational) Taxes

### § 27.30 Special (occupational) tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, importers engaged in the business of selling, or offering for sale, distilled spirits, wines or beer are subject to the provisions of part 31 of this chapter relating to special (occupational) taxes. Part 31 requires that the special tax return, Form 5630.5, with payment of the tax, shall be filed with TTB in accordance with the instruction on the form, before commencing business. Subsequently, Form 5630.5 with tax shall be filed each year on or before July 1, as long as the proprietor continues in business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340 as amended, 1343 as amended, 1344 as amended (26 U.S.C. 5111, 5112, 5121, 5122))

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the persons described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

[T.D. ATF–70, 45 FR 33981, May, 21, 1980, as amended by T.D. ATF–251, 52 FR 19339, May 22, 1987; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005; T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

### § 27.31 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 27.30(b), every person engaged in business as an importer of distilled spirits, who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where the warehouse receipts are sold or offered for sale, and must file return and pay occupational tax as provided in § 27.30(a). During the suspension period, every such person must register as provided in § 27.30(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

[T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

## Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

### § 27.40 Distilled spirits.

(a) A tax is imposed on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed by 26 U.S.C. 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of each proof gallon. All products of distillation, by whatever name known, which contain distilled spirits, are considered to be distilled spirits and are taxed as such. The tax will be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 27.41. The effective tax

rate established will be applied to each entry.

(Approved by the Office of Management and Budget under control number 1512–0352.)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18069, Apr. 30, 1990]

### § 27.41 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD

| | |
|---|---|
| Distilled spirits | 2249.1 proof gallons. |
| Eligible wine (14% alcohol by volume) | 2265.0 wine gallons. |
| Eligible wine (19% alcohol by volume) | 1020.0 wine gallons. |
| Eligible flavors | 100.9 proof gallons. |

$$\frac{2249.1(\$13.50)+2265.0(\$1.07)+1020(\$1.57)+16.6^{1}(\$13.50)}{2249.1+100.9+(2265.0\times.28)+(1020\times.38)}=$$

$$\frac{\$30{,}362.85+\$2{,}423.55+\$1{,}601.40+\$224.10}{2{,}350.0+634.2+387.6}=\frac{\$34{,}611.90}{3{,}371.8}=\$10.27,\ \text{the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18069, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52742, Dec. 21, 1990. Redesignated by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

[1] Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the total proof gallons in the batch (100.9 − (2½%) × 3.371.8 = 16.6).

WINES

### § 27.42 Wines.

All wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax at the rates prescribed by law; such tax to be determined at the time of removal from customs custody for consumption or sale. The tax is imposed on each wine gallon and at a like rate on fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 27.42a Still wines containing carbon dioxide.

Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded.

[T.D. ATF–13, 40 FR 4419, Jan. 30, 1975. Redesignated at 40 FR 16835, Apr. 15, 1975]

LIQUEURS, CORDIALS, AND OTHER COMPOUNDS AND PREPARATIONS

### § 27.43 Liqueurs, cordials, and similar compounds.

A tax is imposed by 26 U.S.C. 5001 on all liqueurs, cordials, and similar compounds, containing distilled spirits, in a customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1331, as amended (26 U.S.C. 5001, 5041))

[T.D. ATF–62, 44 FR 71718, Dec. 11, 1979]

### § 27.44 Other compounds and preparations.

Compounds and preparations, other than those specified in § 27.43 containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rates applicable to distilled spirits. Compounds and preparations, containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wines.

(68A Stat. 595, as amended, 609, as amended; 26 U.S.C. 5001, 5041)

BEER

### § 27.45 Rate of tax.

A tax is imposed by 26 U.S.C. 5051, on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for fractional parts of a barrel. The tax on beer shall

be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5054))

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55853, Sept. 28, 1979]

### § 27.46 Computation of tax.

The tax on imported beer shall be computed on the basis of the actual quantity in a container, at the rate prescribed by law.

(72 Stat. 1333, as amended; 26 U.S.C. 5051)

[T.D. 6644, 28 FR 3165. Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

## COLLECTION OF INTERNAL REVENUE TAXES

### § 27.48 Imported distilled spirits, wines, and beer.

Internal revenue taxes payable on imported distilled spirits, including perfumes containing distilled spirits, and on wines and beer, are collected, accounted for, and deposited as internal revenue collections by directors of customs in accordance with customs requirements: *Provided*, That the taxes on distilled spirits withdrawn from customs custody without payment of tax under the provisions of subpart L and thereafter withdrawn from bonded premises of a distilled spirits plant subject to tax shall be collected and paid under the provisions of part 19 of this chapter.

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

[20 FR 3561, May 21, 1955, as amended by T.D. 6477, 25 FR 6204, July 1, 1960; T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.48, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 27.48a Payment of tax by electronic fund transfer.

(a) Each importer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 26 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 26 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 26 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT), as defined in paragraph (c) of this section, of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for an importer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on all taxable withdrawals from premises in the United States and importations (including products of the same tax class brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer.

(b) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(c) Electronic fund transfer or EFT means any transfer of funds, other than a transaction originated by

check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer of magnetic tape, so as to order, instruct, or authorize a financial institution to either debit or credit an account, in accordance with procedures established by the U.S. Customs Service.

(d) An importer who is required by this section to make remittances by EFT shall make the EFT remittance in accordance with the requirements of the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–245, 52 FR 533, Jan. 7, 1987, as amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

EXEMPTION OF CERTAIN SAMPLES FROM INTERNAL REVENUE TAXES

### § 27.49 Commercial samples of alcoholic beverages.

Samples of distilled spirits, beer, and wine, to be used in the United States by persons importing alcoholic beverages in commercial quantities, are, subject to the limitations in this section, exempt from the payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. In no case shall this exemption apply to more than one sample of each alcoholic beverage product admitted during any calendar quarter for the use of each such person. No sample of beer shall contain more than 8 ounces, no sample of wine shall contain more than 4 ounces, and no sample of distilled spirits shall contain more than 2 ounces.

(76 Stat. 72; 19 U.S.C. 1202)

[T.D. 6300, 23 FR 5168, July 8, 1958; T.D. ATF–2, 37 FR 22740, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975]

## Subpart E—General Requirements

PERMIT FOR IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

### § 27.55 Federal Alcohol Administration Act permit.

Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto (27 CFR part 1), any person except an agency of a State or political subdivision thereof, or any officer or employee of any such agency, intending to engage in the business of importing distilled spirits, wines or beer for nonindustrial use is required to procure a permit therefor.

(Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203)

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

PACKAGING AND MARKING OF DISTILLED SPIRITS

### § 27.56 Distilled spirits containers of a capacity of not more than 1 gallon.

Bottled distilled spirits imported into the United States for sale shall be bottled in liquor bottles which conform to the requirements of subpart N of this part and part 5 of this chapter. Empty bottles imported for the packaging of distilled spirits shall conform to the requirements of subpart N of this part. (For Customs requirements as to marking, see 19 CFR parts 11 and 12.)

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

### § 27.57 Containers in excess of 1 gallon.

Imported containers of distilled spirits in excess of 1 gallon are required to be marked in accordance with customs regulations (19 CFR parts 11 and 12).

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–206, 50 FR 23955, June 7, 1985]

LABELING OF DISTILLED SPIRITS

### § 27.58 Containers of 1 gallon (3.785 liters) or less.

Labels on imported containers of distilled spirits, and on containers of imported distilled spirits bottled in customs custody, for sale at retail, are required to be covered by a certificate of label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. Containers of imported distilled spirits bottled after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. When distilled spirits are to be labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to the provisions of part 19 of this chapter.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.58, see the List of CFR Sections Affected in the Finding Aids section of this volume.

MARKING AND LABELING OF WINES AND BEER

### § 27.59 Wines.

All imported wines containing not less than 7 percent and not more than 24 percent of alcohol by volume are required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4), prior to their removal from customs custody. Containers of imported wine bottled or packaged after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval on TTB Form 5100.31 issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4). Imported containers of wine are required also to be marked, branded and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF–242, 51 FR 39526, Oct. 29, 1986; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.60 Beer.

All imported beer is required to be released from customs custody in conformity with the Federal Alcohol Administration Act and regulations thereunder. The attention of all concerned is directed, in this connection, to the provisions of Regulations 7 (27 CFR part 7) relating to the labeling and advertising of malt beverages, issued under the Federal Alcohol Administration Act. Imported containers of beer are required to be marked and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

CLOSURES FOR CONTAINERS OF DISTILLED SPIRITS

### § 27.61 Containers of distilled spirits to bear closures.

No person shall transport, buy, possess, or sell, or transfer any imported distilled spirits in containers of 1 gallon (3.785 liters) or less, unless the immediate container thereof has a closure or other device affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

### § 27.62 Affixing closures.

Closures or other devices on containers of imported distilled spirits having a capacity of 1 gallon (3.785 liters) or less shall be affixed so as to leave a portion of the closure or other device remaining on the container when it is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

EXEMPTIONS

### § 27.74 Exemption from requirements pertaining to marks, bottles, and labels.

The provisions of this part relating to the labeling of containers as prescribed by 27 CFR part 5 are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid or determined on or before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in §§ 27.49 and 27.75, imported for any purpose are not exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the labeling requirements of 27 CFR parts 4 and 7, respectively. Exemptions from the requirements that imported distilled spirits, wines, and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR part 11).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5205, 5301))

[T.D. ATF–206, 50 FR 23956, June 7, 1985]

### § 27.75 Samples of distilled spirits, wine, and beer for quality control purposes.

Samples of distilled spirits, wine, and beer in containers of a capacity of not more than 1.75 liters, imported solely for quality control purposes (laboratory testing and analysis) and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to marks, bottles, labels, and standards of fill. Samples imported for quality control purposes shall not be exempt from the payment of any internal revenue tax imposed on, or by reason of, importation.

[T.D. ATF–198, 50 FR 8557, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23955, June 7, 1985]

WINE AND FLAVORS CONTENT OF DISTILLED SPIRITS

### § 27.76 Approval and certification of wine and flavors content.

(a) Any person who, after December 1, 1990, imports into the United States distilled spirits on which the tax is to be paid or determined at an effective tax rate based in whole, or in part, on the alcohol content derived from eligible wine or eligible flavors which have not been previously approved on TTB Form 5530.5 (1678) shall, before the first tax determination at that rate, request and receive a statement of eligibility for each wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the importer shall cause to be submitted to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample of each distilled spirits, wine and flavor contained in the product; and

(2) A statement of composition listing—

(i) For wine, the kind (class and type) and percentage of alcohol by volume; and

(ii) For flavors, the name and percentage of alcohol by volume, and the name and quantity of each ingredient used in the manufacture of the flavor.

(c) Each time distilled spirits containing eligible wine or eligible flavors are imported into the United States, the importer shall prepare a certificate of effective tax rate computation showing the following:

(1) Name, address, and permit number of the importer;

(2) Kind (class and type) of product;

(3) Elements necessary to compute the effective tax rate in accordance with § 27.41 as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(iii) Proof gallons of distilled spirits derived from eligible flavors;

(4) After December 1, 1990, the date of the statement of eligibility of each eligible wine and of each eligible flavor;

(5) Effective tax rate applied to the product; and

(6) Signature of the importer or other duly authorized person under the following declaration:

I declare under the penalties of perjury that this certificate of effective tax rate computation has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(d) The importer shall file the certificate of effective tax rate computation with the district director of customs at the port of entry, at the time of entry summary, or, for distilled spirits to be withdrawn from customs custody under the provisions of subpart L of this part, furnish a copy to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18070, Apr. 30, 1990, as amended by T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

### § 27.77 Standard effective tax rate.

(a) In lieu of preparing a certificate of effective tax rate computation each time distilled spirits containing eligible wine or eligible flavors are imported as prescribed in § 27.76(c), an importer may have a standard effective tax rate established based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product.

(b) To have a standard effective tax rate established, the importer shall cause to be submitted to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) The samples prescribed in § 27.76(b)(1) and an 8-ounce sample of the finished product;

(2) The statement of composition prescribed in § 27.76(b)(2);

(3) A statement of composition for the finished product listing the—

(i) Name of the product;

(ii) Quantity, alcohol content (percentage of alcohol by volume), and the kind (class and type) of each eligible wine or the name of each eligible flavor used in the manufacture of the product; and

(iii) Standard effective tax rate for the product computed in accordance with § 27.41.

(c) Where a standard effective tax rate has been previously approved for a product, an importer, in lieu of having a standard effective tax rate established, may use that rate. An importer desiring to use a previously approved standard effective tax rate shall obtain a copy of the approval from the person to whom it was issued and, over the signature of the importer or other duly authorized person, place the following declaration:

I declare under the penalties of perjury that this approval has been examined by me and, to best of my knowledge and belief, the standard effective tax rate established for this product is applicable to all like products contained in this shipment.

(d) A standard effective tax rate may not be employed until approved by the appropriate TTB officer. The importer shall file or furnish a copy of the standard effective tax rate approval in the manner prescribed in § 27.76(d). The use of a standard effective tax rate shall not relieve an importer from the payment of any tax found to be due. The appropriate TTB officer may at any time require an importer to immediately discontinue the use of a standard effective tax rate.

(Approved by the Office of Management and Budget under control Number 1512–0352)

[T.D. ATF–297, 55 FR 18070, Apr. 30, 1990; 55 FR 23635, June 11, 1990; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002; T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

## Subparts F–G [Reserved]

## Subpart H—Importation of Distilled Spirits In Bulk

### § 27.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded

warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C., 206) and Regulation 3 (27 CFR part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 27.133 to 27.134.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555))

[T.D. ATF–34, 41 FR 46864, Oct. 26, 1976]

### § 27.121 Containers.

Imported distilled spirits may be bottled in either domestic or imported containers conforming to the provisions of subpart N of this part.

(72 Stat. 1374; 26 U.S.C. 5301)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

## Subpart I—Importer's Records and Reports

### §§ 27.130–27.132 [Reserved]

RECORD AND REPORT OF IMPORTED LIQUORS

### § 27.133 General requirements.

Except as provided in § 27.134, every importer who imports distilled spirits, wines, or beer shall keep such records and render such reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provision of part 31 of this chapter. Any importer who does not take physical possession of the liquors at the time of, but is responsible for, their release from customs custody shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and the date of release, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512–0352)

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

[T.D. ATF–2, 37 FR 22743, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 27.134 Proprietors of qualified premises.

Importing operations conducted by proprietors of premises qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

[T.D. 6388, 24 FR 4824, June 12, 1959, as amended by T.D. 6477, 25 FR 6207, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

FILING AND RETENTION OF RECORDS AND REPORTS

### § 27.136 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate TTB officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with Customs recordkeeping requirements (See 19 CFR part 163).

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, they may maintain either loose-leaf or book records of the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982, as amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part, must be retained for not less than three years, and during this period must be available, during business hours, for inspection and copying by appropriate TTB or Customs officers. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where the appropriate TTB officer determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

[T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

## OTHER RECORDS

### § 27.138 Transfer record.

The transfer record for imported spirits prescribed in § 27.172 shall show the:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with ''1'' each January 1;

(c) Name and distilled spirits plant number of the proprietor who received the spirits from customs custody;

(d) Country of origin;

(e) Name of foreign producer;

(f) Kind of spirits;

(g) Age, in years, months and days of the spirits;

(h) Proof of the spirits;

(i) Type and number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

### § 27.139 Package gauge record.

When required in this part, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number; and

(c) For each package:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Proof;

(5) Proof gallons;

(6) Name of warehouseman who received the spirits from customs custody; and

(7) Name of importer.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

### § 27.140 Certification requirements for wine.

(a) *Definitions.* When used in this section, the following terms have the meaning indicated:

*Affiliate* means any one of two or more persons if one of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons, and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has a controlling ownership interest. An affiliate also means any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

*Importer* means any person importing wine who must obtain a permit as provided in § 27.55.

*Natural wine* means the product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any cellar treatment authorized by subparts F and L of part 24 of this chapter and containing not more than 21 percent by weight (21

degrees Brix de-alcoholized wine) of total solids.

*Produced*, when used with reference to wine, means removed from the fermenter.

*Proper cellar treatment* means a production practice or procedure authorized by subparts F and L of part 24 of this chapter and, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

(b) *Certification*—(1) *General.* Except as otherwise provided in paragraph (b)(2) of this section, an importer of natural wine must have an original or copy of a certification from the producing country stating that the practices and procedures used to produce the imported wine constitute proper cellar treatment. The certification:

(i) Must be from a governmental or government-approved entity having oversight or control over enological practices in the producing country under the laws of that country;

(ii) Must include the results of a laboratory analysis of the wine conducted either by a government laboratory of the producing country or by a laboratory certified by the government of the producing country; and

(iii) Must be in the possession of the importer at the time of release of the wine from customs custody and may cover multiple importations provided that the wine in each case is of the same brand and class or type, was made by the same producer, was subjected to the same cellar treatment, and conforms to the statements made on the certification.

(2) *Alternative certifications and exemptions*—(i) The following are alternatives to the producing country certification and laboratory analysis requirement described in paragraph (b)(1) of this section:

(A) In the case of natural wine produced and imported subject to an international agreement or treaty specifying that the practices and procedures used to produce the wine are acceptable to the United States, no producing country certification and laboratory analysis is required, unless that international agreement or treaty requires a certification, in which case the importer must have in his or her possession at the time of release of the wine from customs custody an original or copy of that certification.

(B) If an importer of natural wine or its affiliate owns or controls a winery operating under a basic permit issued under part 1 of this chapter, in lieu of a producing country certification and laboratory analysis, the importer may self-certify that the practices and procedures used to produce the wine constitute proper cellar treatment. The self-certification must be either in the format set forth in paragraph (c) of this section with blocks 1 through 4 completed or in an alternative format that sets forth the same information, and it must be in the possession of the importer at the time of release of the wine from customs custody. In the case of self-certification the importer also must have at the time of release from customs custody records to establish that the requirements for self-certification are met.

(ii) The following are exempt from any certification requirement under this section:

(A) Natural wine produced before January 1, 2005. However, in this case, the importer must have in his or her possession at the time of release of the wine from customs custody records to establish that the wine was produced before January 1, 2005.

(B) Importations of natural wine that are of a personal, non-commercial nature. Examples of non-commercial importations include importations by travelers, gift shipments between individuals, and importations by diplomats for embassy or consular use.

(C) Importations of natural wine that constitute commercial samples. Commercial samples include sales samples, samples for trade shows, and samples for laboratory analysis.

(D) Imported natural wine held on board international passenger carriers, such as cruise ships or airliners.

(c) *Form.* The format for certification referred to in paragraph (b) of this section is the following:

**Certification of Natural Wine Imported into the United States**

| |
|---|
| 1. Producer name and address: |
| 2. Description of wine: |
| 3. Check applicable box:<br>a. ☐ Producing country certification and laboratory analysis results completed below.<br>b. ☐ Self-certification by importer completed below. An importer must be able to demonstrate the nature of the ownership or control as well as the nature of any affiliation. |
| 4. Certification - I certify that the practices and procedures used to produce the wine described in block 2 constitute proper cellar treatment under 26 U.S.C. 5382 and 27 CFR 27.140.<br><br>Name and address of certifying entity:<br><br>Authorized signature:<br><br>Name (print or type):<br><br>Date (DD/MM/YY): |
| 5. Analysis for wine described in block 2<br><br>Percentage alcohol (actual) by volume: Signature:<br><br>Total sulphur dioxide (ppm): Name (print or type):<br><br>Volatile acidity (grams per 100 mL): Date (DD/MM/YY):<br><br>Name and address of laboratory: |
| 6. TTB label approval identification number (required if certification is submitted subsequent to label approval): |

(d) *Preparation of Certification.* The following rules apply for the completion of the certification set forth in paragraph (c) of this section:

(1) Block 1 must state the legal name and address (including country) of the producer of the wine.

(2) Block 2 must include a complete description of the wine, including its brand name, year of production, class or type, and country of origin.

(3) The importer must check the applicable box in block 3:

(i) The importer must check box 3a and ensure that blocks 4 and 5 are completed if no alternative certification applies to the wine under paragraph (b)(2)(i) of this section.

(ii) If paragraph (b)(2)(i)(B) applies to the wine, the importer must check box 3b and complete the certification in block 4.

(4) If the certification is submitted subsequent to approval of a label, the importer must complete block 6 by including the TTB identification number from the certificate of label approval, TTB Form 5100.31.

[T.D. TTB–31, 70 FR 49483, Aug. 24, 2005]

## Subparts J–K [Reserved]

## Subpart L—Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

### § 27.171 General provisions.

Imported distilled spirits in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001. Imported spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof, and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of 27 CFR part 19. However, distilled spirits plant proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody. The person operating the bonded premises of the distilled spirits plant to which imported spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the importer shall thereupon be relieved of his liability for such tax.

(Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

[T.D. ATF–62, 44 FR 71719, Dec. 11, 1979, as amended by T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

### § 27.172 Preparation of transfer record and package gauge record.

The person importing spirits under this subpart shall prepare a transfer record according to § 27.138. A separate transfer record shall be prepared for each conveyance. If the spirits are in packages he shall prepare a package gauge record according to § 27.139 and attach it to the transfer record. The transfer record and the package gauge record shall be prepared in triplicate, and, upon release of the spirits from customs custody one copy will be given to the customs officer, one copy will be forwarded to the appropriate TTB officer, and the original will be forwarded to the consignee.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985, as amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.173 Inspection and release.

The customs officer shall not release distilled spirits under this subpart until he inspects the spirits. If it appears that losses in transit were sustained from any container, the customs officer shall gauge the spirits in such container and enter the elements of gauge on the transfer record if the spirits are in a bulk conveyance or on the package gauge record if the spirits are in packages. The customs officer shall enter on the transfer record the port of entry, carrier identification, warehouse entry number, applicable rate of duty, and serial number of any customs seals affixed to bulk conveyances. When all

customs requirements are complied with, he shall release the spirits for transfer to the distilled spirits plant by dating and signing on the transfer with his title the statement: ''To the best of my knowledge the information hereon is accurate and the spirits are released.'' The original of the transfer record with any attachments shall be retained by the consignee.

(Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

### § 27.174 Tank cars and tank trucks to be sealed.

Where a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

[T.D. 6477, 25 FR 6208, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 27.175 Receipt by consignee.

Proprietors of distilled spirits plants who receive imported spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody.

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

## Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

SOURCE: 50 FR 9200, Mar. 6, 1985, unless otherwise noted.

### § 27.181 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 appropriate TTB officer. 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))

### § 27.182 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 must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate TTB officer, 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 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of Customs, and forward the original to the appropriate TTB officer for cancellation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

[50 FR 9200, Mar. 6, 1985, as amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.183 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 subagencies, 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))

### § 27.184 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.

[T.D. ATF–198, 50 FR 8559, Mar. 1, 1985]

### § 27.185 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 § 27.139. 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))

## Subpart N—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6819, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

### § 27.201 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46865, Oct. 26, 1976]

### § 27.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of part 19, or subpart E of part 5 of this chapter, may be imported for packaging distilled spirits in the United States as provided in part 19 of this chapter.

[T.D. ATF–62, 44 FR 71720, Dec. 11, 1979]

### § 27.204 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be imported by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit TTB Form 5100.31 for approval prior to importation of such bottles into the United States. For empty bottles, the bottler shall obtain approval from the appropriate TTB officer on TTB Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval.* Properly submitted TTB Forms 5100.31 to import distinctive liquor bottles (filled), or, properly submitted TTB Forms 5100.31 to use distinctive liquor bottles (empty) which have been imported, shall be approved provided such bottles are found by the appropriate TTB officer to—

(1) Meet the requirements of 27 CFR part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved TTB Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If TTB Form 5100.31 is disapproved, the applicant shall be notified of the appropriate TTB officer decision and the reasons therefor. The applicant importer is responsible for furnishing a copy of the approved TTB Form 5100.31, including a photograph of the distinctive liquor bottle, to Customs officials at each affected port of entry where the merchandise is examined.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43951, Oct. 5, 1982, as amended by T.D. ATF–242, 51 FR 39526, Oct. 29, 1986; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.205 [Reserved]

### § 27.206 Bottles not constituting approved containers.

The appropriate TTB officer is authorized to disapprove any bottle, including a bottle of less than 200 ml. capacity, for use as a liquor bottle which he determines to be deceptive. The Customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the appropriate TTB officer that such bottle is not an approved container for distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43951, Oct. 5, 1982]

### § 27.207 Bottles to be used for display purposes.

Empty liquor bottles may be imported and furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. The importer shall keep records of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

[T.D. ATF–206, 50 FR 23956, June 7, 1985]

### § 27.208 Liquor bottles denied entry.

Filled liquor bottles, not conforming to the provisions of this subpart, shall be denied entry into the United States: *Provided,* That, upon letterhead application, in triplicate, the appropriate TTB officer may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of § 27.206, which, through unintentional error, do not conform to the provisions of this subpart, if he

finds that such release will not afford a jeopardy to the revenue.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

### § 27.209 Used liquor bottles.

The appropriate TTB officer may pursuant to letterhead application filed in triplicate, authorize an importer to receive liquor bottles assembled for him as provided in § 31.263 of this chapter. Used liquor bottles so received may be stored at any suitable location pending exportation for reuse. The importer shall keep records of the receipt and disposition of used liquor bottles.

(Approved by the Office of Management and Budget under control number 1512–0352]

[T.D. 6954, 33 FR 6819, May 4, 1968, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

## Subpart O—Miscellaneous Provisions

### § 27.221 Alternate methods or procedures.

(a) *Application.* An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application, in triplicate, with the appropriate TTB officer. Each application must:

(1) Specify the name, address, and permit number of the importer to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate TTB officer must determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate TTB officer may approve the alternate method or procedure if such officer finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the appropriate TTB officer. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. ATF–2, 37 FR 22743, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

# PART 28—EXPORTATION OF ALCOHOL

## Subpart A—Scope

Sec.
28.1 General.
28.2 Forms prescribed.
28.3 Related regulations.
28.4 Delegations of the Administrator.

## Subpart B—Definitions

28.11 Meaning of terms.

## Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

28.20 Alternate methods or procedures; and emergency variations from requirements.
28.21 General.
28.22 Vessels employed in the fisheries.
28.23 Reciprocating foreign countries.

MANUFACTURING BONDED WAREHOUSES

28.25 General.

CUSTOMS BONDED WAREHOUSES

28.26 Entry of distilled spirits into customs bonded warehouses.
28.27 Entry of wine into customs bonded warehouses.
28.28 Withdrawal of wine and distilled spirits from customs bonded warehouses.

FOREIGN-TRADE ZONES

28.30 Export status.

VOLUNTARY DESTRUCTION OF LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

28.35 General.
28.36 Application.
28.37 Action by appropriate TTB officer.
28.38 Action by district director of customs.

EVIDENCE OF EXPORTATION AND USE

28.40 Evidence of exportation: distilled spirits and wine.
28.41 Evidence of lading for use on vessles or aircraft: distilled spirits and wine.
28.42 Evidence of deposit.
28.43 Evidence of exportation and lading for use on vessels and aircraft: beer.

RETENTION OF RECORDS

28.45 Retention of records.

PENALTIES OF PERJURY

28.48 Execution under penalties of perjury.

## Subpart D—Bands and Consents of Surety

28.51 General.
28.52 Corporate surety.
28.52a Filing of powers of attorney.
28.52b Execution of powers of attorney.
28.53 Deposit of securities in lieu of corporate surety.
28.54 Consents of surety.
28.55 Authority to approve bonds and consents of surety.
28.56 Disapproval of bonds or consents of surety.
28.57 Appeal to Administrator.
28.58 Operations or unit bond—distilled spirits.
28.59 Bond, Form 5120.36.
28.60 Brewer's bond, Form 5130.22.
28.61 Bond, Form 2734 (5100.25).
28.62 Bond, Form 2735 (5100.30).
28.63 Bond, Form 2736 (5100.12).
28.64 Bond, Form 2737 (5110.67).
28.65 Bond, Form 2738 (5110.68).
28.66 Strengthening bonds.
28.67 New or superseding bonds.

TERMINATION OF BONDS

28.70 Termination of bonds, Forms 2734 (5120.25) and 2736 (5100.12).
28.71 Termination of bonds, Forms 2735 (5100.30), 2737 (5110.67), and 2738 (5110.68).
28.72 Application of surety for relief from bond.
28.73 Relief of surety from bond.
28.74 Release of pledged securities.

CHARGES AND CREDITS

28.80 Charges and credits on bonds.

## Subpart E—Withdrawal of Distilled Spirits Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

28.91 General.
28.92 Application or notice, TTB Form 5100.11.
28.93 Carrier to be designated.
28.94 Containers.
28.95 Change of packages for exportation.
28.96 Approval of application.
28.97 [Reserved]
28.98 Inspection and regauge.
28.100 [Reserved]
28.101 Packages to be stamped.
28.102 Bottles to have closures affixed.
28.103 Export marks.
28.104 Certificates of origin.
28.105 Report of inspection and tax liability.
28.106 Consignment, shipment, and delivery.
28.107 Disposition of forms.

LOSSES

28.110 Losses.

RETURN OF SPIRITS TO BONDED PREMISES

28.115 General.
28.116 Notice of return of spirits withdrawn without payment of tax.
28.117 Responsibility for return of spirits.
28.118 Receipt of spirits.

## Subpart F—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone or to a Customs Bonded Warehouse, or Transportation to a Manufacturing Bonded Warehouse

28.121 General.
28.122 Application or notice, TTB Form 5100.11.

28.123 Export marks.
28.124 Consignment, shipment, and delivery.
28.125 Disposition of forms.
28.126 Proprietor's report.
28.127 Losses.

RETURN OF WINES TO BONDED WINE CELLAR

28.130 General.
28.131 Application for return of wines withdrawn without payment of tax.
28.132 Responsibility for return of wine.
28.133 Disposition of forms.

## Subpart G—Removal of Beer and Beer Concentrate Without Payment of Tax for Exportation, Use as Supplies on Vessels and Aircraft, or Transfer to a Foreign-Trade Zone

28.141 General.
28.142 Notice, Form 1689.
28.143 Containers.
28.144 Export marks.
28.145 Consignment, shipment and delivery.
28.146 Disposition of forms.
28.147 Return of beer or beer concentrate.
28.148 Brewer's report.
28.149 Losses.
28.150 Charges and credits on bond.

## Subpart H—Withdrawal of Specially Denatured Spirits, Free of Tax, for Exportation or Transfer to a Foreign-Trade Zone

28.151 General.
28.152 Notice, TTB Form 5100.11.
28.153 Withdrawal procedure.
28.154 Export marks.
28.155 Consignment, shipment, and delivery.
28.156 Losses.

RETURN OF SPECIALLY DENATURED SPIRITS TO BONDED PREMISES

28.160 General.
28.161 Notice of return of specially denatured spirits.
28.162 Responsibility for return of specially denatured spirits.
28.163 Receipt of specially denatured spirits.

## Subpart I—Exportation of Distilled Spirits With Benefit of Drawback

28.171 General.

FILING OF NOTICE AND REMOVAL

28.190 Notice, TTB Form 5110.30.
28.191 [Reserved]
28.192 Packages of distilled spirits to be gauged.
28.193 Export marks.
28.194–28.195 [Reserved]
28.195b Claims on spirits tax determined on and after January 1, 1980.
28.196 Consignment, shipment, and delivery.
28.197 Return of spirits withdrawn for export with benefit of drawback.
28.198 Notice of return.
28.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

## Subpart J [Reserved]

## Subpart K—Exportation of Wine With Benefit of Drawback

28.211 General.
28.212 Persons authorized.
28.213 [Reserved]
28.214 Notice and claim, Form 1582–A (5120.24).
28.215 Certificate of tax determination, Form 2605 (5120.20).
28.216 Export marks.
28.217 Consignment, shipment, and delivery.
28.218 Disposition of Forms 1582–A (5120.24).
28.219 Return of wine withdrawn for export with benefit of drawback.
28.220 Notice of return.
28.220a Responsibility for return of wine withdrawn for export with benefit of drawback.

## Subpart L—Exportation of Beer With Benefit of Drawback

28.221 General.
28.222 Claim, Form 1582–B (5130.6).
28.223 Export marks.

EXECUTION OF CLAIMS

28.225 Removals of beer by brewer.
28.226 Removals of beer by agent on behalf of brewer.
28.227 Removals of beer by persons other than the brewer or agent of the brewer.

CONSIGNMENT, SHIPMENT, AND DELIVERY

28.230 Consignment, shipment, and delivery.

## Subpart M—Shipment or Delivery for Export

CONSIGNMENT

28.241 Shipment for export, or for use on vessels.
28.242 Shipment for use on aircraft.
28.243 Shipment to armed services.
28.244 Shipment to manufacturing bonded warehouse.
28.244a Shipment to a customs bonded warehouse.
28.245 Shipment to foreign-trade zone.
28.246 Delivery for shipment.
28.247 Change in consignee.

BILLS OF LADING

28.250 Bills of lading required.
28.251 Railway express receipts.
28.252 Air express or freight bills of lading.
28.253 Certificate by export carrier.

## Subpart N—Proceedings at Ports of Export

28.261 Notice to district director of customs.
28.262 Delay in lading at port.
28.263 [Reserved]
28.264 Lading for exportation.
28.265 Evidence of fraud.
28.266 Release of detained merchandise.
28.267 Exportation from interior port.
28.268 Receipt for liquors for use on vessels or aircraft.
28.269 Certification by district director of customs.

RECEIPT BY ARMED SERVICES

28.275 Receipt by armed services.

LADING FOR USE ON AIRCRAFT

28.280 Distilled spirits and wines.
28.281 Certificate of use for distilled spirits and wines.
28.282 Beer.

RECEIPT IN MANUFACTURING BONDED WAREHOUSE

28.285 Receipt in manufacturing bonded warehouse.

RECEIPT IN CUSTOMS BONDED WAREHOUSE

28.286 Receipt in customs bonded warehouse.

RECEIPT IN FOREIGN-TRADE ZONE

28.290 Receipt in foreign-trade zone.

CUSTOMS GAUGE

28.291 Customs Form 6001.

ALTERNATE PROCEDURES

28.295 Exception for export of beer.

## Subpart O—Losses

DISTILLED SPIRITS

28.301 Loss of distilled spirits in transit.
28.302 Notice to exporter.
28.303 Filing of claims.
28.304 Action on claim.

SPECIALLY DENATURED SPIRITS

28.310 Loss of specially denatured spirits in transit.

WINE

28.315 Loss of wine in transit.
28.316 Notice to exporter.
28.317 Filing of claims.
28.318 Action on claim.

BEER AND BEER CONCENTRATE

28.320 Loss of beer and beer concentrate in transit.
28.321 Tax assessed on loss not accounted for.

## Subpart P—Action on Claims

28.331 Claims supported by bond, Form 2738 (5110.68).
28.332 Claim against bond.
28.333 Where no bond is filed.
28.334 Credit allowance.
28.335 Disallowance of claim.

AUTHORITY: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

SOURCE: 25 FR 5734, June 23, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004

EDITORIAL NOTE: Nomenclature changes to part 28 appear at 67 FR 18087 through 18090, Apr. 15, 2002.

## Subpart A—Scope

### §28.1 General.

The regulations in this part relate to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class 6, of distilled spirits (including specially denatured spirits), beer, and wine, and in the case of distilled spirits and wine only, transfer to a customs bonded warehouse as provided for in 26 U.S.C. 5066 and 5362, whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

[T.D. ATF–88, 46 FR 39814, Aug. 5, 1981]

### §28.2 Forms prescribed.

(a) The Appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or

by accessing the TTB Web site (*http://www.ttb.gov*).

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF–92, 46 FR 46921, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5963, Feb. 27, 1987; T.D. ATF–372, 61 FR 20725, May 8, 1996; T.D. ATF–477, 67 FR 18087, Apr. 15, 2002; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.3 Related regulations.

Regulations relating 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—Labeling and Advertising of Wine
27 CFR Part 19—Distilled Spirits Plants
27 CFR Part 21—Formulas for Denatured Alcohol and Rum
27 CFR Part 24—Wine
27 CFR Part 25—Beer
27 CFR Part 30—Gauging Manual
27 CFR Part 31—Alcohol Beverage Dealers
31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety of Sureties on Penal Bonds

[T.D. ATF–224, 51 FR 7698, Mar. 5, 1986; as amended by T.D. ATF–299, 55 FR 25033, June 19, 1990; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

### § 28.4 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.28, Delegation of the Administrator's Authorities in 27 CFR Part 28, Exportation of Alcohol. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

## Subpart B—Definitions

### § 28.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.28, Delegation of the Administrator's Authorities in 27 CFR part 28, Exportation of Alcohol.

*Beer.* Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

*Bonded premises—distilled spirits plant.* The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

*Bonded wine cellar.* Premises established under part 24 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine.

*Brewer.* A proprietor of a brewery.

*Brewery.* Premises established under part 25 of this chapter for the production of beer.

*Bulk container.* any container having a capacity of more than 1 gallon.

*CFR.* The Code of Federal Regulations.

*Container.* Any receptacle, vessel, or any form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquors.

*Customs bonded warehouse.* A customs bonded warehouse, class 2, 3, or 8, established under the provisions of Customs Regulations (19 CFR chapter I).

*Customs officer.* Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform the duties of an officer of the Customs Service.

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, NY), the area directors of customs in the district of New York, NY, and the port director at a port not designated as a headquarters port.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits.

*Distilled spirits plant.* An establishment qualified under the provisions of part 19 of this chapter for the production, warehousing, or processing of spirits, or for authorized combinations of such operations.

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, 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.

*Exportation.* A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country or in a possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa and Guam, and to the Panama Canal Zone shall also be treated as exportations.

*Foreign-trade zone or zone.* A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

*Gallon or wine gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*Liquor.* Distilled spirits, wines, and/or beer.

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as ''ml''.

*Manufacturing bonded warehouse.* A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR, chapter I).

*Package.* Any cask, keg, barrel, drum, or similar portable container.

*Person.* An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

*Proof.* The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

*Proof gallon.* A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

*Proprietor.* The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, or manufacturing bonded warehouse, as the case may be, referred to in this part.

*Secretary.* The Secretary of the Treasury or his delegate.

*Specially denatured spirits.* Alcohol or rum, as defined in part 21 of this chapter, denatured pursuant to the formulas authorized in part 21 for specially denatured alcohol or rum.

*Tank truck.* A tank-equipped semi-trailer, trailer, or truck.

*Tax.* The distilled spirits tax, the beer tax, or the applicable wine tax, as the case may be, imposed by 26 U.S.C. chapter 51.

*U.S.C.* The United States Code.

*Wine.* All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

*Zone operator.* The person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205))

[T.D. ATF–48, 43 FR 13552, Mar. 31, 1978, as amended by T.D. ATF–51, 43 FR 24243, June 2, 1978; 44 FR 55854, Sept. 28, 1979; T.D. ATF–62, 44 FR 71720, Dec. 11, 1979; T.D. ATF–199, 50 FR 9201, Mar. 6, 1985; T.D. ATF–224, 51 FR 7698, Mar. 5, 1986; T.D. ATF–477, 67 FR 18088, Apr. 15, 2002; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

## Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

### § 28.20 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures*—(1) *Application.* An exporter, after receiving approval from the appropriate TTB officer, 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 appropriate TTB officer. The exporter shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by appropriate TTB officer.* The appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer 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 appropriate TTB officer.* The appropriate TTB officer 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 appropriate TTB officer 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.* If the appropriate TTB officer finds the revenue is jeopardized or the effective administration of this part is hindered by the approval, such TTB officer may withdraw approval for an alternate method or procedure or for an emergency variation from requirements, approved under paragraph (a) or (b) of this section.

(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))

[T.D. ATF–199, 50 FR 9201, Mar. 6, 1985, as amended by T.D. ATF–477, 67 FR 18088, Apr. 15, 2002; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.21 General.

Liquors may be withdrawn without payment of tax for lading, and liquors on which the tax has been paid or determined may be laden with benefit of drawback of tax, subject to this part, for use on vessels and aircraft as follows:

(a) Vessels or aircraft operated by the United States;

(b) Vessels of the United States employed in the fisheries as provided in § 28.22 or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States;

(c) Aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States;

(d) Vessels of war of any foreign nation;

(e) Foreign vessels employed in the fisheries as provided in § 28.22 or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; where such trade by foreign vessels is permitted; or

(f) Aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found such foreign country allows, or will allow, substantially reciprocal privileges in respect to aircraft registered in the United States.

(46 Stat. 690, as amended; 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[T.D. 6588, 27 FR 773, Jan. 26, 1962. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.22 Vessels employed in the fisheries.

Liquors may be withdrawn or laden under the provisions of paragraphs (b) and (e) of § 28.21 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the district director of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the liquors to be withdrawn or laden are intended to be removed from the vessel in, or otherwise returned to, the United States. Such withdrawal or lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such liquors for use on such vessels shall be subject to approval by the district director of customs of a special written application by the withdrawer or the vessel's master on customs Form 5125 (in duplicate) and a statement by the withdrawer in his application or notice on the required TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, that the liquors are to be laden for use as supplies on a vessel employed in the fisheries. The

original application on customs Form 5125, after approval, shall be stamped with the serial number of the TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, and the date thereof, and shall be returned by the district director of customs to the withdrawer or vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the district director of customs within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the liquors until the district director of customs is satisfied that they have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such liquors remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the director of the port or place of arrival shall deem necessary. When such liquors have been accounted for to the satisfaction of the district director of customs, he shall execute his certificate of lading and use on both copies of the TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, and forward the original of the form according to its instructions. In the event of a failure on the part of the withdrawer or the master of the vessel to comply with the conditions of this section or upon receipt of evidence that the liquors were not lawfully used as supplies on the vessel, the district director of customs shall advise the appropriate TTB officer of all the facts in the case for determination of any liability incurred. In the case of liquors withdrawn without payment of tax, assessment of tax liability found to have been incurred shall be made against the principal on the bond. In the case of taxpaid or tax determined liquors, the appropriate TTB officer shall determine as to whether to make demand upon the principal and the surety on the bond or to disallow the claim as the case may be.

NOTE: As used in this section, the word ''withdrawer'' shall mean the person executing the application or notice, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.22, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.23 Reciprocating foreign countries.

The appropriate TTB officer may approve applications relating to the withdrawal or lading of liquors for use on aircraft of those foreign countries which will allow, to aircraft registered in the United States and engaged in foreign trade, privileges substantially reciprocal to the privileges allowed herein to aircraft of a foreign country. Where application is made to withdraw or lade liquors for use on aircraft of other countries, which it is claimed reciprocate similar privileges to aircraft of the United States, the applicant must first establish the right of such withdrawal or lading. In appropriate cases, the applicant should request the Secretary of Commerce to find and advise the Secretary of the Treasury that such foreign country or countries allow, or will allow, substantially reciprocal privileges to aircraft of the United States.

(46 Stat. 690, as amended; 19 U.S.C. 1309)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

## MANUFACTURING BONDED WAREHOUSES

### § 28.25 General.

The proprietor of a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR chapter I, may withdraw distilled spirits or wine from any distilled spirits plant or bonded wine cellar, as the case may be,

without payment of tax, for use in the manufacture of products for export, or for shipment in bond to Puerto Rico, or for use by foreign governments, organizations, and individuals, as authorized by 26 U.S.C. 5066, 5214(a)(6) and 5362; and 19 U.S.C. 1311. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of § 28.63 or § 28.64.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–88, 46 FR 39814, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

CUSTOMS BONDED WAREHOUSES

### § 28.26 Entry of distilled spirits into customs bonded warehouses.

(a) *Distilled spirits withdrawn without payment of tax.* (1) Bottled distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 28.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(4).

(2) Distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported. These withdrawals shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(9).

(b) *Bottled distilled spirits eligible for export with benefit of drawback.* Bottled distilled spirits eligible for export with benefit of drawback may, subject to this part, be transferred to customs bonded warehouses in which imported distilled spirits are permitted to be stored, and entered pending withdrawal as provided in § 28.28, as if such spirits were for exportation.

(c) *Time deemed exported.* For the purpose of this part, distilled spirits entered into a customs bonded warehouse as provided in this section shall be deemed exported at the time so entered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1381, 1382, (26 U.S.C. 5214); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066, 5370, 5371; 26 U.S.C. 7805))

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–206, 50 FR 23956, June 7, 1985; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.27 Entry of wine into customs bonded warehouses.

Upon filing of the application or notice prescribed by § 28.122(a), wine may be withdrawn from a bonded wine cellar for transfer to any customs bonded warehouse for entry pending withdrawal as provided in § 28.28. Such withdrawal from bonded wine cellars is governed by the provisions of subpart F of this part. Wine so transferred to customs bonded warehouses shall be entered, stored, and accounted for in such warehouses under the appropriate provisions of 19 CFR chapter I.

(Sec. 2, Pub. L. 96–601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF–88, 46 FR 39815, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.28 Withdrawal of wine and distilled spirits from customs bonded warehouses.

Wine and bottled distilled spirits entered into customs bonded warehouses as provided in § 28.26 (a) or (b) and § 28.27 may, under the appropriate provisions of 19 CFR chapter I, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of foreign governments, organizations, and individuals who are entitled to withdraw imported wine and distilled spirits from a warehouse free of tax. Distilled spirits and wine entered into customs bonded warehouses under the provisions of §§ 28.26(a)(2) and 28.27 may be withdrawn for exportation, subject to the provisions of 19 CFR chapter I. Distilled spirits and wine transferred to customs bonded warehouses shall be entered into, stored and accounted for in, and withdrawn from, such warehouses under the appropriate provisions of 19 CFR chapter I. Wine and bottled distilled spirits, originally

transferred to customs bonded warehouses for the purpose of withdrawal by foreign embassies, legations, etc., as authorized by law, may be withdrawn from such warehouses for domestic use, in which event they shall be treated as American goods exported and returned.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066); sec. 2, Pub. L. 96–601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF–88, 46 FR 39815, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

FOREIGN-TRADE ZONES

### § 28.30 Export status.

(a) Distilled spirits and wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States, and beer brewed or produced in the United States may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors deposited in a foreign-trade zone under this part solely for such purposes are considered to be exported. Export status is not acquired until application on Form 214 for admission of the liquors into the zone has been approved by the district director of customs under the appropriate provision of 19 CFR chapter I, and the required certification of deposit has been made on the TTB form prescribed in this part.

(b) The provisions of subpart H of this part do not apply to specially denatured spirits transferred to a foreign-trade zone for use in the manufacture of articles pursuant to the provisions of 19 U.S.C. 81c(c). Transfer of domestic specially denatured spirits to a qualified user in a foreign-trade zone is made free of tax under the provisions of part 20 of this chapter. Such transfer does not place the domestic specially denatured spirits in an export status.

(48 Stat. 999, as amended (19 U.S.C. 81c))

[T.D. ATF–274, 53 FR 25157, July 5, 1988, as amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

VOLUNTARY DESTRUCTION OF LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

### § 28.35 General.

Liquors may not, under the law, be transferred to a foreign-trade zone for the purpose of destruction. However, liquors transported to and deposited in a foreign-trade zone for exportation or for storage pending exportation may be destroyed under the supervision of the district director of customs, where it is shown to the satisfaction of the appropriate TTB officer that the liquors, after deposit in a zone, have become unmerchantable or unfit for export.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.36 Application.

Liquors deposited in a foreign-trade zone from the United States which have become unmerchantable or unfit for export may be destroyed. The exporter shall prepare a letter application, in duplicate, and submit it to the appropriate TTB officer. The application shall identify the name and address of the exporter and contain the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the zone in which the liquor is stored;

(b) The name and address of the producer bottler or packager of the liquor, and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors were withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date, form, and serial number of the TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be; and, in the case of liquors on which drawback of internal revenue tax has been allowed, the TTB assigned claim number;

(d) Whether the liquor has become unmerchantable or unfit for export after deposit in the zone, together with all the known facts relating thereto; and

(e) Whether the unmerchantable or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application shall show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor, and to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction.

Such application shall be signed by the exporter or his authorized agent and be executed under the penalties of perjury. The appropriate TTB officer may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the district director of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR chapter I). On receipt of the application the district director of customs shall determine the completeness thereof and shall report any facts relating to the condition of the liquor of which he may have knowledge. The original application shall be forwarded to the appropriate TTB officer and the district director of customs shall retain the copy for his files.

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.36, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.37 Action by appropriate TTB officer.

The appropriate TTB officer shall carefully examine the application to see that all the required information has been furnished and shall cause an investigation to be made or require any additional evidence, including samples, to be submitted if necessary. If the appropriate TTB officer finds that the liquors were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that the liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the district director of customs. On approval or disapproval of the application, the appropriate TTB officer shall advise the district director of customs of his action.

[T.D. ATF–51,43 FR 24244, June 2, 1978, as amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.38 Action by district director of customs.

On receipt of the appropriate TTB officer's authorization for destruction of the liquor, or his disapproval of the application for destruction, the district director of customs shall act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR chapter I). Where the appropriate TTB officer has authorized the destruction of the liquor, such destruction shall be accomplished under customs supervision.

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

EVIDENCE OF EXPORTATION AND USE

### § 28.40 Evidence of exportation: distilled spirits and wine.

The exportation of any shipment of distilled spirits or wine may be evidenced by:

(a) A copy of the export bill of lading (§ 28.250); or

(b) A copy of the railway express receipt (§ 28.251); or

(c) A copy of the air express receipt (§ 28.252); or

(d) A copy of the through bill of lading where exportation is to a contiguous foreign country (§ 28.250); or

(e) A certificate by the export carrier, as provided for in § 28.253.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–224, 51 FR 7698, Mar. 5, 1986; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.41 Evidence of lading for use on vessels or aircraft: distilled spirits and wine.

The lading of distilled spirits or wine for use on vessels or aircraft may be evidenced by submission of a receipt procured under the provisions of § 28.268.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 201, Pub. L. 85–859; 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

[T.D. ATF–224, 51 FR 7698, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.42 Evidence of deposit.

The deposit of distilled spirits in a customs bonded warehouse or distilled spirits and wines in a foreign-trade zone with benefit of drawback may be evidenced by a copy of the transportation bill of lading obtained under the provisions of § 28.250.

(48 Stat. 999, as amended, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5066)

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.43 Evidence of exportation and lading for use on vessels and aircraft: beer.

(a) *Exportation.* The exportation of beer to a foreign country or possession will be fully evidenced by any of the following documents:

(1) Customs certification of lading and clearance on Form 1582–B (5130.6) or Form 1689 (5130.12) under subpart M of this part; or

(2) For shipment to the armed forces, certification by a military officer on Form 1582–B (5130.6) or Form 1689 (5130.12) under § 28.275; or

(3) A bill of lading (§ 28.250), a railway express receipt (§ 28.251), or an air express or air freight bill of lading (§ 28.252), when such bills of lading or receipt show exportation to a foreign country or possession; or

(4) A certificate issued by an export carrier under § 28.253 attesting to exportation to a foreign country or possession; or

(5) A landing certificate issued by an official of the country or possession where the beer has actually landed; or

(6) Any other evidence of exportation approved by the appropriate TTB officer.

(b) *Use as supplies on vessels and aircraft.* The lading of beer for use on vessels or aircraft will be fully evidenced by:

(1) For fishing vessels only, customs certification of lading and use on Form 1582–B (5130.6) or Form 1689 (5130.12) under § 28.23; or

(2) Customs certification of lading on Form 1582–B (5130.6) or Form 1689 (5130.12) under §§ 28.264 or 28.282; or

(3) Any other evidence of exportation approved by the appropriate TTB officer.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended (26 U.S.C. 5053, 5055))

[T.D. ATF–224, 51 FR 7698, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

## RETENTION OF RECORDS

### § 28.45 Retention of records.

File copies of forms required by this part to be retained by any proprietor or claimant, and all records, documents, or copies of records and documents supporting such forms, shall be preserved by such proprietor or claimant for a period of not less than two years, and during such period shall be

available, during business hours, for inspection and the taking of abstracts therefrom by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512–0385)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1381, as amended, 1390, as amended, 1395, as amended (26 U.S.C. 5114, 5367, 5415, 5555); sec. 807, Pub. L. 96–39, 93 Stat. 283 (26 U.S.C. 5207))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71721, Dec. 11, 1979; T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

PENALTIES OF PERJURY

### § 28.48 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be so executed, as defined in subpart B of this part, and shall be signed by the proprietor, or other duly authorized person.

(68A Stat. 749 (26 U.S.C. 6065))

## Subpart D—Bonds and Consents of Surety

### § 28.51 General.

Every person required by this part to file a bond or consent of surety must prepare and execute it on the prescribed form and file it in accordance with its instructions and the procedures of this part. The procedures in parts 19, 24 or 25 of this chapter govern bonds covering distilled spirits plants, bonded wine cellars and breweries, respectively.

[T.D. ATF–477, 67 FR 18089, Apr. 15, 2002]

### § 28.52 Corporate surety.

(a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER annually as of the first workday of July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

[T.D. ATF–92, 46 FR 46921, Sept. 23, 1981]

### § 28.52a 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 so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.52b 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 other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 28.53 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225.

(61 Stat. 650; 6 U.S.C. 15)

### § 28.54 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.

### § 28.55 Authority to approve bonds and consents of surety.

Appropriate TTB officers are authorized to approve all bonds and consents of surety required by this part.

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.56 Disapproval of bonds or consents of surety.

The appropriate TTB officer may disapprove any bond prescribed by this part, or any consent of surety submitted in respect thereto, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction, of:

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such offense shall have been compromised with the person on payment of penalties or otherwise; or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(72 Stat. 1336, 1352, 1353, 1394; 26 U.S.C. 5062, 5175, 5177, 5551)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71721, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.57 Appeal to Administrator.

Where a bond or consent of surety is disapproved by the appropriate TTB officer, the person giving the bond may appeal from such disapproval to the Administrator, who will hear such appeal. The decision of the Administrator shall be final.

(72 Stat. 1394; 26 U.S.C. 5551)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.58 Operations or unit bond—distilled spirits.

(a) *Spirits.* Where spirits are withdrawn without payment of tax, as authorized in § 28.91, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the operations or unit bond, given by the proprietor and approved under the provisions of part 19 of this chapter, shall cover such withdrawals.

(b) *Wine.* Where, under the provisions of part 19 of this chapter, an operations or unit bond has been given and approved to cover the operations of a distilled spirits plant and an adjacent bonded wine cellar, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 28.121, from such bonded wine cellar on application for such withdrawal by the proprietor.

(c) *Specially denatured spirits.* Where specially denatured spirits are withdrawn free of tax, as authorized in § 28.151, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the proprietor shall file a consent of surety extending the terms of the operations or unit bond, which consent shall be in the following form:

The obligors agree to extend the terms of said bond to cover all liability that may be incurred on all specially denatured spirits withdrawn by the principal for exportation or transfer to a foreign-trade zone, for which satisfactory evidence of exportation, or of deposit in a foreign-trade zone, as required by law and regulations, is not submitted to the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1352, as amended, 1362, as amended (26 U.S.C. 5175, 5214); Sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066); Sec. 805, Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

[T.D. ATF–62, 44 FR 71721, Dec. 11, 1979, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### §28.59 Bond, Form 5120.36.

Where the operations of a bonded wine cellar are covered by bond, Form 5120.36, as provided in part 24 of this chapter, such bond shall cover the withdrawal of wine without payment of tax, as authorized in §28.121, from such bonded wine cellar by the proprietor of the bonded wine cellar.

(72 Stat. 1379, 1380; 26 U.S.C. 5354, 5362, as amended by T.D. ATF–299, 55 FR 25033, June 19, 1990; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### §28.60 Brewer's bond, Form 5130.22.

When beer or beer concentrate is removed from a brewery without payment of tax for any of the purposes authorized in §28.141, the brewer's bond, Form 5130.22, furnished under the provisions of part 25 of this chapter will cover the removals.

(49 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1388, as amended (26 U.S.C. 5053, 5401))

[T.D. ATF–224, 51 FR 7698, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### §28.61 Bond, Form 2734 (5100.25).

If a specific lot of distilled spirits or wine is to be withdrawn without payment of tax, as authorized in §28.91(a)(1), (2), (3), (5), or §28.121(a), (b), (c), or (d), by a person other than the proprietor of the bonded premises, a specific bond on TTB Form 2734 (5100.25) shall be filed by the exporter, as provided in §28.51. The penal sum of the bond shall not be less than the tax prescribed by law on the quantity of spirits or wine to be withdrawn. However, the maximum penal sum of the bond shall not exceed $200,000 but in no case shall the penal sum be less than $1,000.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1352, as amended, 1362, as amended, 1380, as amended, 1381, 1382 (26 U.S.C. 5175, 5214, 5362) sec. 3. Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066, 5370, 5371))

[T.D. ATF–88, 46 FR 39815, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### §28.62 Bond, Form 2735 (5100.30).

(a) *Requirement for bond.* If a person other than the proprietor of the bonded premises withdraws distilled spirits or wine without payment of tax, as authorized by §28.91(a)(1), (2), (3), (5), or §28.121(a), (b), (c), or (d), the exporter shall file a continuing bond, TTB Form 2735 (5100.30), as provided in §28.51.

(b) *Penal sum of bond.* The penal sum of the bond shall be sufficient to cover the tax on the maximum quantity of distilled spirits and wine that may remain unaccounted for at any one time. However, the maximum penal sum of the bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wine withdrawn for exportation, use on vessels or aircraft, transfer to a customs bonded warehouse, or transfer to and deposit in a foreign-trade zone, shall remain unaccounted for until the evidence of exportation, use, deposit, transfer, or loss in transit has been filed with the appropriate TTB officer.

(c) *Apportioning bonds.* If the bond, Form 2735 (5100.30), is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The exporter may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, TTB Form 1533 (5000.18), in accordance with its instructions.

(d) *Withdrawal of wine for transfer to a customs bonded warehouse; consent of surety.* An exporter with a bond on Form 2735 (5100.30) executed before April 1, 1981, shall obtain a consent of surety on Form 1533 (5000.18) before withdrawing wine without payment of tax from a bonded wine cellar for transfer to a customs bonded warehouse. The consent shall be executed in accordance with §28.54 and filed in accordance with instructions on the form. Exporters with bonds executed on or after April 1, 1981, do not need this consent of surety, because such bonds automatically apply to withdrawals for transfer to customs bonded warehouses.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1352, as amended, 1362, as amended, 1380, as amended, 1381, 1382 (26 U.S.C. 5175, 5214, 5362) sec. 3. Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066, 5370, 5371))

[T.D. ATF–88, 46 FR 39815, Aug. 5, 1991, as amended by T.D. ATF–413, 64 FR 46845, Aug. 27, 1999; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.63 Bond, Form 2736 (5100.12).

Where the proprietor of a manufacturing bonded warehouse desires to withdraw a specific lot of distilled spirits or wines without payment of tax, as authorized in § 28.25, he shall file, as provided in § 28.51, a specific bond, on Form 2736 (5100.12), to cover the transportation of the distilled spirits or wines from the bonded premises from which withdrawn to the manufacturing bonded warehouse. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of distilled spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71721, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.64 Bond, Form 2737.

(a) *General.* Where the proprietor of a manufacturing bonded warehouse desires to withdraw distilled spirits and wines from time to time without payment of tax, as authorized in § 28.25, he shall file, as provided in § 28.51, a continuing bond on Form 2737 (5110.67). The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines which may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for transfer to a manufacturing bonded warehouse shall remain unaccounted for until the evidence of deposit in such warehouse, as required by this part, has been filed. The proprietor shall, at the time of executing Form 2737 (5110.67), designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2737 (5110.67), such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* If the bond, Form 2737 (5110.67) is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The principal may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, Form 1533, in accordance with its instructions.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71721, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.65 Bond, Form 2738 (5110.68).

Whenever, under the provisions of this part, the claimant desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, or, in the case of distilled spirits, transferred to a customs bonded warehouse, as authorized in §§ 28.171 and 28.211, prior to the receipt of the certified copy of TTB Form 5110.30, or 1582–A (5120.24), as the case may be, as prescribed by this part, he shall file bond on Form 2738 (5110.68) as provided in § 28.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond:

*Provided,* That the maximum penal sum shall not exceed $200,000, but in no case shall the penal sum be less than $1,000: *Provided further,* That where the claimant desires to remove distilled spirits to a customs bonded warehouse as provided in § 28.171(d) and the terms of his bond on Form 2738 (5110.68), then in force, do not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2738 (5110.68).

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71721, Dec. 11, 1979; T.D. ATF–198, 50 FR 8559, Mar. 1, 1985; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.66 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1352, 1394; 26 U.S.C. 5175, 5551)

### § 28.67 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 28.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a new or superseding bond when required, he shall discontinue the operations intended to be covered by such bond forthwith. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1336, 1362; 26 U.S.C. 5062, 5214)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

TERMINATION OF BONDS

### § 28.70 Termination of bonds, Forms 2734 (5120.25) and 2736 (5100.12).

Bonds, Forms 2734 (5120.25) and 2736 (5100.12), covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the appropriate TTB officer on receipt by him of TTB Form 5100.11 properly executed by the appropriate customs official or armed services officer, as required by this part, evidencing that the distilled spirits or wines have been duly exported, laden for use on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be, or of evidence satisfactory to him that the distilled spirits or wines have been otherwise lawfully disposed of or accounted for: *Provided,* That all liability under the bond to be canceled has been terminated.

(72 Stat. 1352; 26 U.S.C. 5175)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.71 Termination of bonds, Forms 2735 (5100.30), 2737 (5110.67), and 2738 (5110.68).

Continuing bonds, Forms 2735 (5100.30) and 2737 (5110.67), covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part and Form 2738 (5110.68) covering allowance of claims for drawback on distilled spirits and/or wines removed as authorized in §§ 28.171 and 28.211, may be terminated as to liability for future withdrawals or claims (a) pursuant to application of surety as provided in § 28.72, (b) on approval of a superseding bond, or (c) on written notification to the appropriate TTB officer by the principal of his discontinuance of withdrawals or claims, as the case may be, under the bond. When no further withdrawals are to be made under a bond on Form 2735 (5100.30) or 2737 (5110.67), or no further claims for drawback are to be filed under bond Form 2738 (5110.68), the bond shall be canceled by the appropriate TTB officer in the manner and

subject to the conditions provided in § 28.70.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. ATF–198, 50 FR 8559, Mar. 1, 1985; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.72 Application of surety for relief from bond.

A surety on any bond given on Forms 2735 (5100.30), 2737 (5110.67), or 2738 (5110.68), may at any time in writing notify the principal and the appropriate TTB officer that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 28.73(b).

(68A Stat. 749, as amended (26 U.S.C. 6065); Sec. 201. Pub. L. 85–859, 72 Stat. 1336, as amended, 1352, as amended (26 U.S.C. 5062, 5175))

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.73 Relief of surety from bond.

(a) *Bonds, Forms 2734 (5120.25) and 2736 (5100.12).* The surety on a bond given on Form 2734 (5120.25) or Form 2736 (5100.12) shall be relieved from his liability under the bond when the bond has been canceled as provided for in § 28.70.

(b) *Bonds, Forms 2735 (5100.30), 2737 (5110.67), and 2738 (5110.68).* Where the surety on a bond given on Form 2735 (5100.30), Form 2737 (5110.67), or on Form 2738 (5110.68) has filed application for relief from liability, as provided in § 28.72, the surety shall be relieved from liability for withdrawals or claims, as the case may be, made wholly subsequent to the date specified in the notice, or on the effective date of a superseding bond, if one is given. Notwithstanding such relief, the liability of the surety shall continue until the spirits and/or wines withdrawn without payment of tax or included in a claim for drawback of tax allowed under the bond have been properly accounted for.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.74 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 28.53, shall be released only in accordance with the provisions of 31 CFR part 225. Such securities will not be released by the appropriate TTB officer until liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the appropriate TTB officer may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

## CHARGES AND CREDITS

### § 28.80 Charges and credits on bonds.

The withdrawal of liquors without payment of tax or of specially denatured spirits free of tax, under the provisions of this part shall constitute a charge against the bond under which the withdrawal is made of (a) the tax on the liquors withdrawn or (b) of an amount equal to the tax on specially denatured spirits withdrawn that will be due in the event of failure to account for the specially denatured spirits as provided in this part. The tax on liquors so withdrawn, or an amount equal to the tax on specially denatured spirits so withdrawn that would be due

as set forth above, shall, on the required accounting for such liquors or specially denatured spirits, constitute a credit to the bond of such tax or amount equal to the tax, as the case may be. Provisions regarding charges and credits on drawback bonds are contained in subpart P of this part.

## Subpart E—Withdrawal of Distilled Spirits Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

### § 28.91 General.

(a) Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for:

(1) Exportation;

(2) Use on the vessels or aircraft described in § 28.21;

(3) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation;

(4) Transportation to and deposit in a manufacturing bonded warehouse; or

(5) Transfer to and deposit in a customs bonded warehouse as provided for in § 28.26.

(b) All withdrawals shall be made under the applicable bond prescribed in subpart D of this part.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–51, 43 FR 24244, June 2, 1978, as amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.92 Application or notice, TTB Form 5100.11.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on TTB Form 5100.11. If the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare TTB Form 5100.11 as an application, in accordance with the instructions on the form, and shall forward all copies of the form in accordance with instructions for the form. If the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare TTB Form 5100.11 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on TTB Form 5100.11, in accordance with the instructions on the form.

(Approved by the Office of Management and Budget under control number 152–0190)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–198, 50 FR 8559, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.93 Carrier to be designated.

The name of the carrier or carriers to be used in transporting the distilled spirits from the bonded premises of the distilled spirits plant to the port of export, or to the customs bonded warehouse, or to the manufacturing bonded warehouse, or to the foreign-trade zone, as the case may be, shall be shown in the application. If the spirits are shipped on a through bill of lading and all carriers handling the spirits while in transit are not known, the name of the carrier to whom the distilled spirits are to be delivered at the shipping premises shall be shown.

(72 Stat. 1362, 84 Stat. 1965; 26 U.S.C. 5214, 5066)

[T.D. 7112, 36 FR 8581, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71722, Dec. 11, 1979]

### § 28.94 Containers.

Distilled spirits authorized to be withdrawn without payment of tax from the bonded premises of a distilled spirits plant under the provisions of this subpart may be withdrawn from such establishment in such containers as may be authorized in part 19 of this chapter. Except as otherwise provided in this part, the gauging, packing, bottling, casing, marking, closing and reporting of distilled spirits prior to withdrawal shall be in accordance with the provisions of part 19 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1360, as amended, 1374, as amended (26 U.S.C. 5205, 5206, 5301))

[T.D. ATF–62, 44 FR 71722, Dec. 11, 1979; as amended by T.D. ATF–206, 50 FR 23956, June 7, 1985]

### § 28.95 Change of packages for exportation.

Whenever the exporter desires to transfer distilled spirits from packages filled in internal revenue bond to such other suitable packages as may be desired for exportation, such change of packages shall be made under the procedures of part 19 of this chapter, prior to the preparation of TTB Form 5100.11 covering the removal of the distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1360, as amended, 1374, as amended (26 U.S.C. 5205, 5206, 5301))

[T.D. ATF–62, 44 FR 71722, Dec. 11, 1979, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.96 Approval of application.

When filed as an application, and TTB Form 5100.11 has been properly executed, and the required bond has been filed in a sufficient amount, the appropriate TTB officer shall approve the application on all copies of the form and send them to the proprietor of the bonded premises from which the spirits will be withdrawn.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF–62, 44 FR 71722, Dec. 11, 1979, as amended by T.D. ATF–198, 50 FR 8559, Mar. 1, 1985; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.97 [Reserved]

### § 28.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to TTB Form 5100.11 and shall regauge all packages, except those which are to be withdrawn on the filling or production gauge as authorized in 27 CFR part 19. If the withdrawal is to be made subject to regauge, the proprietor shall prepare a package gauge record as provided in 27 CFR part 19, enter the total proof gallons regauged on TTB Form 5100.11, and attach a copy of the package gauge record to each copy of TTB Form 5100.11. If a proprietor wishes to reduce the proof of spirits contained in packages to be withdrawn pursuant to TTB Form 5100.11, he shall make such proof reduction incident to regauge of the packages.

(Approved by the Office of Management and Budget under control number 1412–0190 and 1512–0250)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8559, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.100 [Reserved]

### § 28.101 Packages to be stamped.

Each package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall be marked with the word ''EXPORT'' in accordance with the provisions of 27 CFR part 19 prior to its removal from the bonded premises.

(Approved by the Office of Management and Budget under control number 1512–0189)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985; as amended by T.D. ATF–206, 50 FR 23956, June 7, 1985]]

### § 28.102 Bottles to have closures affixed.

Every bottle containing distilled spirits to be withdrawn under the provisions of this subpart shall have a closure or other device affixed in accordance with the provisions of part 19 of this chapter.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23956, June 7, 1985]

### § 28.103 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages and cases of distilled spirits at the time they are filled under the provisions of part 19 of this chapter, the proprietor shall mark the word ''Export'' on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word ''Export'' on the containers if the appropriate TTB officer finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–82, 46 FR 21158, Apr. 9, 1981, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.104 Certificates of origin.

The entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits. An appropriate TTB officer may, on request of the applicant, furnish a certificate showing the origin and age of the spirits described on TTB Forms 5100.11 or 5110.30. Such officer may require supporting documentation to be provided by the applicant. Certificates of origin and age shall be furnished on Form 2177 (5110.58). Form 2177 (5110.58) may also be issued for distilled spirits removed to a foreign-trade zone, in which case the number and location of the foreign-trade zone shall be shown on the form in lieu of the name of the foreign country.

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.105 Report of inspection and tax liability.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of TTB Form 5100.11.

(72 Stat. 1362; 26 U.S.C. 5214)

[T.D. ATF–46, 42 FR 44773, Sept. 6, 1977, as amended by T.D. ATF–62, 44 FR 71723, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.106 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits withdrawn without payment of tax under this subpart shall be made under the provisions of subpart M.

(72 Stat. 1362; 26 U.S.C. 5214)

### § 28.107 Disposition of forms.

TTB Form 5100.11 and any accompanying package gauge record shall be distributed by the proprietor in accordance with the instruction on TTB Form 5100.11.

(Approved by the Office of Management and Budget under control number 1512–0250)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

## LOSSES

### § 28.110 Losses.

Where there has been a loss of distilled spirits while in transit from the bonded premises of a distilled spirits plant to a port of export, a customs bonded warehouse, a manufacturing bonded warehouse, a vessel or aircraft, or a foreign-trade zone, the provisions of subpart O of this part, with respect to losses of spirits after withdrawal without payment of tax and to claims

for remission of the tax thereon, shall be applicable.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

[T.D. 7112, 36 FR 8581, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

RETURN OF SPIRITS TO BONDED PREMISES

### § 28.115 General.

Spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or for use on vessels and aircraft may, subject to the requirements of § 28.116, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises from which withdrawn, pending subsequent removal for lawful purposes. However, such spirits may only be returned before they are exported, deposited in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365 as amended (26 U.S.C. 5214, 5223); Sec. 3, Pub. L. 91–659, 84 Stat. 1365, as amended (26 U.S.C. 5066))

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.116 Notice of return of spirits withdrawn without payment of tax.

If a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 28.115, he shall file a notice with the appropriate TTB officer. A copy of the notice shall be prepared for submission to the customs official, as required by § 28.117. The notice shall be executed under the penalties of perjury and shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the distilled spirits plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Serial number of the TTB Form 5100.11 and the date withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of the bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71723, Dec. 11, 1979; T.D. TTB–8, 69 FR 3832, Jan. 27, 2004]

### § 28.117 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 28.116 to the appropriate customs official. If the spirits are returned before the TTB Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the spirits are eligible for return under § 28.115, accept the notice as authority for the return of the spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of TTB Form 5100.11 ''Canceled'', note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled TTB Form 5100.11 and file one

copy with the appropriate TTB officer identified on the form.

(Sec. 201, Pub. L. 85–859, 72 Stat 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF–62, 44 FR 71723, Dec. 11, 1979, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.118 Receipt of spirits.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of subpart U of part 19 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF–62, 44 FR 71723, Dec. 11, 1979]

## Subpart F—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone or to a Customs Bonded Warehouse, or Transportation to a Manufacturing Bonded Warehouse

### § 28.121 General.

Wine may, subject to this part, be withdrawn from a bonded wine cellar, without payment of tax, for:

(a) Exportation;

(b) Use on the vessels and aircraft described in § 28.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation;

(d) Transfer to and deposit in a customs bonded warehouse as provided in § 28.27; or

(e) Transportation to and deposit in a manufacturing bonded warehouse.

All such withdrawals shall be made under the applicable bond prescribed in subpart D.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1380; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 7805; (sec. 201, Pub. L. 85-859. 72 Stat. 1381, 1382 (26 U.S.C. 5370, 5371)))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71723, Dec. 11, 1979; T.D. ATF–88, 46 FR 39816, Aug. 5, 1981; 47 FR 20303, May 12, 1982; T.D. TTB–8, 69 FR 3831, Jan. 27, 2004]

### § 28.122 Application or notice, YYN Form 5100.11.

(a) *Export, use on vessels and aircraft, transfer to a customs bonded warehouse, and transfer to a foreign-trade zone.* Where the exporter is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must make an application on ATF Form 5100.11 for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment on TTB Form 5100.11. TTB approval is not required if the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn.

(b) *Manufacturing bonded warehouse.* The proprietor of the manufacturing bonded warehouse must make an application on TTB Form 5100.11 to withdraw wine without payment of tax for transportation to and deposit in such warehouse before withdrawal of the wine.

(c) *Action by appropriate TTB officer.* Where, under the provisions of paragraphs (a) and (b) of this section, an TTB Form 5100.11 is submitted to the appropriate TTB officer for approval, the appropriate TTB officer shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve the application and forward it to the proprietor of the premises from which the wines are to be withdrawn.

(d) *Restriction on shipment.* Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of TTB Form 5100.11 by the appropriate TTB officer is required, the proprietor of the bonded wine cellar may not ship the wine until the approved TTB Forms 5100.11 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on TTB Form 5100.11.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.122, see the List of CFR

Sections Affected in the Finding Aids section of this volume.

### § 28.123 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages or cases of wine at the time they are filled under the provisions of part 24 of this chapter, the proprietor shall mark the word ''Export'' on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart, including withdrawals under 26 U.S.C. 5362(c)(4).

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word ''Export'' on the containers if the appropriate TTB officer finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362, 7805))

[T.D. ATF–82, 46 FR 21158, Apr. 9, 1981, as amended by T.D. ATF–88, 46 FR 39816, Aug. 5, 1981; 47 FR 20303, May 12, 1982; T.D. ATF–299, 55 FR 25033, June 19, 1990; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.124 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines withdrawn without payment of tax under this subpart shall be made under the provisions of subpart M of this part.

(72 Stat. 1380; 26 U.S.C. 5362)

### § 28.125 Disposition of forms.

On removal of the wines from the premises of the bonded wine cellar, the proprietor shall forward one copy of TTB Form 5100.11 to the appropriate TTB officer, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by subpart M. Where the shipment is for delivery for use on aircraft, the copy marked ''Consignee's Copy'', provided for in § 28.122, shall be forwarded to the airline company at the airport.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.126 Proprietor's report.

The records of the proprietor of the bonded wine cellar shall reflect the quantity of wine removed without payment of tax under this subpart, and he shall report the quantity of wine so removed on TTB F 5120.17.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–299, 55 FR 25033, June 19, 1990; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.127 Losses.

Where there has been a loss of wine while in transit from a bonded wine cellar to a port of export, a foreign-trade zone, a vessel or aircraft, a customs bonded warehouse, or a manufacturing bonded warehouse, the provisions of subpart O of this part, with respect to losses of wine after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, 1382, (26 U.S.C. 5370, 5371))

[T.D. ATF–88, 46 FR 39816, Aug. 5, 1981]

## RETURN OF WINES TO BONDED WINE CELLAR

### § 28.130 General.

On application of the proprietor of a bonded wine cellar, wine which has been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for use on vessels and aircraft, or for deposit in a foreign-trade zone, in a manufacturing bonded warehouse, or in a customs bonded warehouse, may for good cause be returned to the bonded wine cellar from which withdrawn, for storage pending subsequent removal for lawful purposes. However, such wine must be returned before being exported, laden as supplies or used aboard vessels or aircraft, or deposited in a foreign-trade zone, in a manufacturing

bonded warehouse, or in a customs bonded warehouse, as the case may be.

[T.D. ATF–88, 46 FR 39816, Aug. 5, 1981]

### § 28.131 Application for return of wines withdrawn without payment of tax.

Where a proprietor of a bonded wine cellar desires to return wines to his bonded wine cellar as provided in § 28.130, he shall submit a written application, in duplicate, to the appropriate TTB officer, for approval of the return of the wines. The application shall show.

(a) Name, address, and registry number of the bonded wine cellar.

(b) Name and address of the principal on the bond under which the wines were withdrawn.

(c) Serial number of the TTB Form 5100.11 and the date withdrawn.

(d) Present location of wines to be returned.

(e) Kind of wines to be returned.

(f) Number, kind, and serial numbers of the containers to be returned. In the case of bottled wines, the number and size of the bottles in each case.

(g) Total quantity in wine gallons for each separate tax class of wines to be returned.

(h) Reason for return of the wines.

The application shall be executed under the penalties of perjury. On approval of the application the appropriate TTB officer shall return both copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.132 Responsibility for return of wine.

The principal on the bond under which the wines were withdrawn without payment of tax shall be responsible for arranging the return of the wines to the bonded wine cellar from which they were withdrawn. In case of emergency, the principal on the bond may arrange the return of wines to bonded premises without an approved application, but such wines shall be kept separate at the bonded premises and shall not be recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 28.131. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the wines are returned before the TTB Form 5100.11 has been filed with the customs official. The customs officer shall, if he finds that the wines are eligible for return under § 28.130, accept the approved application as authority for the return of the wines to the bonded wine cellar noted on the application and shall mark each copy of TTB Form 5100.11 ''Canceled'', note the date thereon, affix a copy of the approved application to each of the canceled TTB Forms 5100.11, return both TTB Forms 5100.11 to the principal, and, where the wines are in his custody, release them for return. The canceled TTB Forms 5100.11, with attachments, shall be delivered by such principal or his agent to the proprietor of the bonded wine cellar. When wines have been returned before the TTB Forms 5100.11 were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the proprietor of the bonded wine cellar who shall cancel and date each copy of TTB Form 5100.11 and affix copies of the approved application thereto.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.133 Disposition of forms.

On receipt of the wines at the bonded wine cellar, the proprietor shall endorse, on each copy of the approved application to return the wines, the date received, the total amount in wine gallons of each tax class of wine returned, and affix his signature. He shall forward the original TTB Form 5100.11, with attached application, to the appropriate TTB officer, and retain the remaining copy for his files. The storage, disposition, and records pertaining

to such returned wines shall be in accordance with the applicable provisions of part 24 of this chapter.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

## Subpart G—Removal of Beer and Beer Concentrate Without Payment of Tax for Exportation, Use as Supplies on Vessels and Aircraft, or Transfer to a Foreign-Trade Zone

SOURCE: T.D. ATF–224, 51 FR 7699, Mar. 5, 1986, unless otherwise noted.

### § 28.141 General.

(a) *Beer.* Beer may, subject to this part, be removed from the brewery without payment of tax for:

(1) Export to a foreign country;

(2) Use as supplies on the vessels and aircraft described in § 28.21; or

(3) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

(b) *Beer concentrate.* Concentrate, produced from beer under the provisions of subpart R of part 25 of this chapter may, subject to this part, be removed from the brewery without payment of tax for:

(1) Export to a foreign country; or

(2) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

(c) *Bond.* All removals of beer or beer concentrate will be made by the brewer under the provisions of the brewer's bond, Form 5130.22 as prescribed in § 28.60.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[ T.D. ATF–224, 51 FR 7699, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.142 Notice, Form 1689 (5130.12).

When a brewer intends to remove beer or beer concentrate without payment of tax from a brewery for exportation or for transportation to and deposit in a foreign-trade zone, or remove beer for use as supplies on vessels and aircraft, the brewer shall prepare a notice on Form 1689 (5130.12) for each withdrawal. The brewer shall execute Form 1689 (5130.12) in quadruplicate, except when the shipment is for use on aircraft the brewer shall execute an extra copy which will be marked ''Consignee's Copy.''

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 28.143 Containers.

(a) *Beer.* Beer being exported, used as supplies on vessels and aircraft, or transferred to and deposited in a foreign-trade zone, without payment of tax, may be removed in bottles, kegs, or bulk containers.

(b) *Beer concentrate.* Concentrate may not be removed for export, or for transfer to and deposit in a foreign-trade zone, in containers of the kind ordinarily used by brewers for the removal of beer for consumption or sale.

### § 28.144 Export marks.

(a) *General Requirement.* In addition to the marks and brands required to be placed on containers of beer or beer concentrate under the provisions of part 25 of this chapter, the brewer shall mark the word ''Export'' on each container or case of beer, or the words ''Beer concentrate for export'' on each container of beer concentrate, before removal from the brewery for any exportation authorized under this subpart.

(b) *Exceptions.* A brewer need not apply the mark ''Export'' on cases of beer being exported under the following circumstances:

(1) When beer is being directly exported by the brewer, and the brewer can furnish documentation (such as an ocean or air freight bill of lading, or a foreign landing certificate) that the beer was directly exported to a foreign country;

(2) When cased beer is transferred from a brewery to a foreign-trade zone for export or for storage pending exportation; or

(3) When cased beer is exported to the military.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 28.145 Consignment, shipment and delivery.

The consignment, shipment and delivery of beer or beer concentrate removed from a brewery without payment of tax under this subpart will be in accordance with the applicable provisions of subpart M of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

### § 28.146 Disposition of forms.

On removal of the beer or beer concentrate withdrawn under the provisions of this subpart, the brewer shall forward one copy of Form 1689 (5130.12) to the appropriate TTB officer, retain one copy for the files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by subpart M of this part. When the shipment is for delivery for use on aircraft, the copy marked ''Consignee's Copy,'' provided for in § 28.142, will be forwarded to the airline company at the airport.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[ T.D. ATF–224, 51 FR 7699, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.147 Return of beer or beer concentrate.

Beer or beer concentrate removed without payment of tax under the provisions of this subpart may be returned to be brewery from which removed if lading of the beer or beer concentrate is delayed more than the period provided in § 28.262 or when the brewer has other good cause for return. The brewer shall request the district director of customs to release the beer or beer concentrate for return to the brewery and, on such release, the district director of customs shall endorse both copies of the appropriate Form 1689 (5130.12) to show the release of the beer or beer concentrate and shall return the forms to the brewer. On return of the beer or beer concentrate to the brewery, the brewer shall record the quantity in the brewery daily records, mark the two copies of Form 1689 (5130.12) returned by the district director of customs, ''Canceled—Returned to Brewery,'' and forward one copy to the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended (26 U.S.C. 5053, 5056))

[ T.D. ATF–224, 51 FR 7699, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.148 Brewer's report.

The brewer's records shall reflect the quantity of beer or beer concentrate removed without payment of tax under this subpart, and the brewer shall report the quantity of beer or beer concentrate so removed on Form 5130.9. The total quantity of beer or beer concentrate involved in all export shipments returned during any reporting period will be reported as a separate entry on Form 5130.9.

(Approved by the Office of Management and Budget under control number 1512–0052)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

[T.D. ATF–224, 51 FR 7699, Mar. 5, 1986, as amended by T.D. ATF–345, 58 FR 40358, July 28, 1993]

### § 28.149 Losses.

When there has been a loss of beer or beer concentrate while in transit from the brewery to a port for exportation, or for lading as supplies on a vessel or aircraft, or to a foreign-trade zone, the provisions of subpart O of this part, with respect to losses are applicable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5053))

### § 28.150 Charges and credits on bond.

The removal of beer concentrate from the brewery without payment of tax under this subpart will constitute a charge against the brewer's bond, Form 5130.22, of an amount equal to the tax which would be due on removal for consumption or sale, including penalties

and interest, on all beer used to produce the concentrate which is removed. The satisfactory accounting for concentrate so removed will constitute a credit to the bond.

[T.D. ATF–224, 51 FR 7698, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986]

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5053))

## Subpart H—Withdrawal of Specially Denatured Spirits, Free of Tax, for Exportation or Transfer to a Foreign-Trade Zone

### § 28.151 General.

Specially denatured spirits may, under this part, be withdrawn from the bonded premises of a distilled spirits plant, free of tax, for:

(a) Exportation; or

(b) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such withdrawals shall be made under a consent of surety on the proprietor's operations or unit bond, as prescribed in § 28.58(c).

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.152 Notice, TTB Form 5100.11.

Notice of withdrawal of specially denatured spirits, as authorized in § 28.151 shall be made on TTB Form 5100.11 by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn.

[T.D. ATF–198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.153 Withdrawal procedure.

The provisions of §§ 28.93, 28.94, 28.98, 28.105, and 28.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and shipment, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

[T.D. ATF–46, 42 FR 44774, Sept. 6, 1977, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.154 Export marks.

In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of part 19 of this chapter, the proprietor shall mark the word ''Export'' on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF–82, 46 FR 21159, Apr. 9, 1981]

### § 28.155 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of specially denatured spirits withdrawn free of tax under this subpart shall be made under the provisions of subpart M of this part.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

### § 28.156 Losses.

Where there has been a loss of specially denatured spirits while in transit from the bonded premises of a distilled spirits plant to a port of export or a foreign-trade zone, the exporter shall file claim for allowance of the loss in accordance with the provisions of subpart O of this part.

RETURN OF SPECIALLY DENATURED SPIRITS TO BONDED PREMISES

### § 28.160 General.

Specially denatured spirits, which have been lawfully withdrawn free of tax under the provisions of this part for exportation, or for deposit in a foreign-trade zone, may, subject to the requirements of § 28.161, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises of any distilled spirits plant pending subsequent lawful withdrawal free of tax. However, such specially denatured spirits may only be returned before they are exported, or deposited in a foreign-trade zone. If the specially denatured spirits are to be returned to bonded premises for storage without redistillation, the proprietor shall also execute a consent of surety Form 1533 to extend the terms of his operations or unit bond to cover the return and storage of such specially denatured spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF–198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.161 Notice of return of specially denatured spirits.

If a proprietor of a distilled spirits plant desires to return specially denatured spirits to his plant as provided in § 28.160, he shall file a notice with the appropriate TTB officer. A copy of the notice shall be prepared for submission to the customs official, as required by § 28.162. The notice shall be executed under the penalties of perjury and shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the specially denatured spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant from which the specially denatured spirits were withdrawn.

(c) Serial number of the TTB Form 5100.11 and the date withdrawn.

(d) Present location of specially denatured spirits to be returned.

(e) Description of the specially denatured spirits—kind, serial numbers of containers, and quantity in wine gallons.

(f) Reason for return of the specially denatured spirits.

(g) Disposition to be made of specially denatured spirits, i.e. redistillation or return to processing on the bonded premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71724, Dec. 11, 1979; T.D. ATF–198, 50 FR 8561, Mar. 1, 1985; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.162 Responsibility for return of specially denatured spirits.

The principal on the bond under which the specially denatured spirits were withdrawn free of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 28.161 to the appropriate customs official. If the specially denatured spirits are returned before the TTB Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the specially denatured spirits are eligible for return under § 28.160, accept the notice as authority for the return of the specially denatured spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of TTB Form 5100.11 ''Canceled'', note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled TTB Form 5100.11 and file one copy with the appropriate TTB officer identified on the form.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF–62, 44 FR 71724, Dec. 11, 1979, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.163 Receipt of specially denatured spirits.

The receipt, gauge, and disposition of the specially denatured spirits at the

distilled spirits plant shall be in accordance with the applicable provisions of subpart U of part 19 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF–62, 44 FR 71724, Dec. 11, 1979]

## Subpart I—Exportation of Distilled Spirits With Benefit of Drawback

### § 28.171 General.

Distilled spirits manufactured, produced, bottled in bottles, packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which have been marked under the provisions of 27 CFR part 19 and of this part, as applicable, especially for export with benefit of drawback may be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 28.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation; or

(d) Transferred to and deposited in a customs bonded warehouse as provided for in § 28.26(b).

On receipt by the appropriate TTB officer of required evidence of exportation, lading for use, or transfer, there shall be allowed to the bottler (or packager) of the spirits, drawback equal in amount to the tax found to have been paid or determined on the spirits.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[25 FR 5734, June 23, 1960, as amended by T.D. 7112, 36 FR 8581, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.171, see the List of CFR Sections Affected in the Finding Aids section of this volume.

FILING OF NOTICE AND REMOVAL

### § 28.190 Notice, TTB Form 5110.30.

Notice of shipment of distilled spirits for export, for use as supplies on vessels or aircraft, for deposit in a foreign-trade zone, or for deposit in a customs bonded warehouse, shall be prepared by the exporter on TTB Form 5110.30, in accordance with the instructions on the form.

(48 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. ATF–198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.191 [Reserved]

### § 28.192 Packages of distilled spirits to be gauged.

Except for spirits which may be tax determined on the basis of the original gauge, spirits in packages which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on TTB Form 5110.30. When spirits in packages are gauged, a package gauge record shall be prepared by the proprietor, as provided in 27 CFR part 19, and a copy of the package gauge record shall be attached to each copy of TTB Form 5110.30 and considered a part of the claim.

(Approved by the Office of Management and Budget under control number 1512–0250 and 1512–0199)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.193 Export marks.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases under the provisions of part 19 of this chapter, the exporter shall mark the word ''Export'' on the Government side of each case or Government head of each container before removal for export, for use on vessels or aircraft, or for

transfer to a foreign-trade zone or a customs bonded warehouse.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF–82, 46 FR 21159, Apr. 9, 1981]

### §§ 28.194–28.195 [Reserved]

### § 28.195b Claims on spirits tax determined on and after January 1, 1980.

(a) *Preparation.* Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by § 28.171, shall be prepared in duplicate by the bottler or packager on parts II and III of TTB Form 5110.30.

(b) *Supporting documents.* Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by § 28.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the claimed drawback rate exceeds the rate of tax imposed by 26 U.S.C. 5001 or 7652 on each proof gallon or part thereof of distilled spirits produced in or imported into the United States (e.g., a product containing alcoholic flavoring materials on which drawback has been claimed by the manufacturer of the material under 26 U.S.C. 5131–5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge record as prescribed in 27 CFR part 19, and/or bottling and packaging record. The appropriate TTB officer may also require these or other supporting documents for any distilled spirits product.

(c) *Filing.* One copy of the claim, with supporting documents, if required, shall be filed with the appropriate TTB officer. The bottler or packager shall retain the other copy on file.

(Approved by the Office of Management and Budget under control number 1512–0198)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF–212, 50 FR 34123, Aug. 23, 1985; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.196 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits removed under this subpart for export, use on vessels or aircraft, transfer to a customs bonded warehouse, or transfer to a foreign-trade zone, shall be in accordance with the applicable provisions of subpart M of this part.

(72 Stat. 1336, 84 Stat. 1965; 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 28.197 Return of spirits withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in § 28.198, spirits on which the tax has been paid or determined, and which were withdrawn especially for export with benefit of drawback as provided in § 28.171, but which spirits have not been laden for export, laden for use, or deposited in a customs bonded warehouse or foreign-trade zone, may for good cause be returned under the applicable provisions of this part and 27 CFR part 19:

(a) To the bonded premises of the distilled spirits plant for purposes authorized under 26 U.S.C.; or

(b) To a wholesale liquor dealer; or

(c) To a taxpaid storeroom.

The export marks on spirits returned under this section shall be removed by obliteration, relabeling or recasing.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23956, June 7, 1985; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.198 Notice of return.

If an exporter desires to return spirits to a distilled spirits plant, wholesale liquor dealer or taxpaid storeroom,

as provided in § 28.197, he shall file a notice, executed under the penalties of perjury, with the appropriate TTB officer. The notice shall be prepared in triplicate for submission to the customs official as required in § 28.199. The notice shall show the:

(a) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits;

(b) Date and serial number of the TTB Form 5110.30 on which the spirits were withdrawn;

(c) Present location of the spirits to be returned;

(d) Number, size and identification of the containers;

(e) Proof of spirits;

(f) Reason for the return; and

(g) Planned disposition of the returned spirits.

(Approved by the Office of Management and Budget under control number 1512–0206)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985, as amended at T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of the spirits under this subpart to the proprietor or wholesale liquor dealer who will receive them. The exporter or his agent shall submit the original and copies of the notice required by § 28.198 to the appropriate customs official. If the spirits are returned before TTB Form 5110.30 has been filed with the customs official, the exporter shall submit Form 5110.30 with the notice. The customs officer shall, if the spirits are eligible for return under § 28.197, accept the notice as authority for the return of the spirits to the premises identified in the notice. The customs official shall acknowledge receipt on the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy of the notice and file the original of the notice with the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

## Subpart J [Reserved]

## Subpart K—Exportation of Wine With Benefit of Drawback

### § 28.211 General.

Wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 28.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the appropriate TTB officer of required evidence of exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the wines.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–51, 43 FR 24245, June 2, 1978; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.212 Persons authorized.

Persons who have qualified under this chapter as proprietors of distilled spirits plants, bonded wine cellars, or taxpaid wine bottling houses, and persons who are wholesale liquor dealers as defined in section 5112, I.R.C., and have paid the required tax as a wholesale liquor dealer, are authorized to remove wines under the provisions of this subpart.

(72 Stat. 1336; 26 U.S.C. 5062)

### § 28.213 [Reserved]

### § 28.214 Notice and claim, Form 1582–A (5120.24).

Claim for allowance of drawback of internal revenue taxes on wines removed under the provisions of § 28.211 and § 28.212, shall be prepared by the exporter on Form 1582–A (5120.24), in quadruplicate: *Provided,* That where the withdrawal is for use on aircraft, an extra copy, marked ''Consignee's Copy'', shall be prepared. Each Form 1582–A (5120.24) shall be given, by the exporter, a serial number beginning with ''1'' for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(46 Stat. 690, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 26 U.S.C. 5062)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.215 Certificate of tax determination, Form 2605 (5120.20).

Every claim for drawback of tax on Form 1582–A (5120.24) shall be supported by a certificate, Form 2605 (5120.20), which shall be executed, in duplicate, (a) by the person who withdrew the wine from bond on tax determination, certifying that all taxes have been properly determined on such wine, or (b) where the wine was bottled or packaged after tax determination, by the person who did such bottling or packaging, certifying that the wines so bottled or packaged were received in tax-paid status and specifying from whom they were so received. The appropriate TTB officer may require other evidence of tax payment whenever such officer deems it necessary. The exporter is responsible for securing Form 2605 (5120.20), properly executed, and submitting the original of such form with the claim. The exporter shall retain the copy of Form 2605 (5120.20) for his files.

(72 Stat. 1336; 26 U.S.C. 5062)

### § 28.216 Export marks.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases under the provisions of parts 24 of this chapter, the exporter shall mark the word ''Export'' on the Government side of each case or Government head of each container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–82, 46 FR 21159, Apr. 9, 1981, as amended by T.D. ATF–299, 55 FR 25034, June 19, 1990; T.D. ATF–372, 61 FR 20725, May 8, 1996]

### § 28.217 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines removed under this subpart shall be made under the provisions of subpart M of this part.

(72 Stat. 1336; 26 U.S.C. 5062)

### § 28.218 Disposition of Forms 1582–A (5120.24).

On removal of the wines from the premises, the exporter shall forward one copy of Form 1582–A (5120.24) to the appropriate TTB officer, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked ''Consignee's Copy'', provided for in § 28.214, shall be forwarded to the airline company at the airport.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.219 Return of wine withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in § 28.220, wine on which the tax has been paid or determined, and which was withdrawn especially for export with benefit of drawback as provided in § 28.211, but which wine has not been laden for export, laden for use, or deposited in a foreign-trade zone, may for good cause be returned under the

applicable provisions of this part and 27 CFR part 24:

(a) To a taxpaid storeroom at a bonded wine celler; or

(b) To a wholesale liquor dealer.

The export marks on wines returned under this section shall be removed from the containers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985, as amended by T.D. ATF–344, 58 FR 40355, July 28, 1993; T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.220 Notice of return.

If an exporter desires to return wine to a bonded wine cellar or wholesale liquor dealer as provided in § 28.219, he shall file a notice, executed under the penalties of perjury, with the appropriate TTB officer. The notice shall be prepared in triplicate for submission to the customs official as required in § 28.220a. The notice shall show the:

(a) Name, address, and registration number of the bonded wine cellar from which withdrawn;

(b) Date and serial number of the Form 1582–A (5120.24) on which the wine was withdrawn;

(c) Present location of the wine to be returned;

(d) Number, size and identification of the containers;

(e) Total wine gallons for each tax class of wine; and

(f) Reason for the return.

(Approved by the Office of Management and Budget under control number 1512–0292)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985; 50 FR 23410, June 4, 1985, as amended by T.D. TTB–8, 69 FR 3833, Jan. 27, 2004]

### § 28.220a Responsibility for return of wine withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of wine under this subpart to the proprietor or wholesale liquor dealer receiving the wine. The exporter or his agent shall submit the original and copies of the notice required by § 28.220 to the appropriate customs official. If the wine is returned before Form 1582–A (5120.24) has been filed with the customs official, the exporter shall submit TTB Form 1582–A with the notice. The customs officer shall, if the wine is eligible for return under § 28.219, accept the notice as authority for the return of the wine to the premises identified in the notice. The customs officer shall acknowledge receipt of the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy and file the original of the notice with the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985, as amended by T.D. TTB–8, 69 3834, Jan. 27, 2004]

## Subpart L—Exportation of Beer With Benefit of Drawback

### § 28.221 General.

Beer brewed or produced in the United States and on which the internal revenue tax has been paid may, subject to this part, be:

(a) Exported;

(b) Delivered for use as supplies on the vessels and aircraft described in § 28.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

Claim for drawback of taxes found to have been paid may be filed only by the producing brewer or his duly authorized agent. On receipt by the appropriate TTB officer of required evidence of such exportation, delivery for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid on such beer.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

[25 FR 5734, June 23, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975. Redesignated and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.222 Claim, Form 1582–B (5130.6).

Claim for allowance of drawback of internal revenue taxes on beer brewed or produced in the United States shall be prepared on Form 1582–B (5130.6), in quadruplicate, as required by this part. Each Form 1582–B (5130.6) shall be given, by the person initiating the

form, a serial number beginning with ''1'' for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(72 Stat. 1335; 26 U.S.C. 5055)

### § 28.223 Export marks.

In addition to the marks and brands required to be placed on kegs, barrels, cases, crates or other packages under the provisions of part 25 of this chapter, the exporter shall mark the word ''Export'' on each container or case before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5055))

[T.D. ATF–82, 46 FR 21159, Apr. 9, 1981, as amended by T.D. ATF–224, 51 FR 7700, Mar. 5, 1986]

## EXECUTION OF CLAIMS

### § 28.225 Removals of beer by brewer.

Where a brewer removes taxpaid beer from the brewery or from its place of storage elsewhere for exportation, for lading for use as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, he shall execute the notice and claim on Form 1582–B (5130.6). On removal of the beer for shipment the brewer shall file one copy of Form 1582–B with the appropriate TTB officer, retain one copy for his files, and immediately forward the original and one copy of the form:

(a) In case of shipments for export or for use as supplies on vessels or aircraft, to the district director of customs at the port of export; or

(b) In the case of shipments to the armed services of the United States for export, to the commanding or supply officer to whom the shipment is consigned; or

(c) In the case of shipments to a foreign-trade zone, to the customs officer in charge of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–85, 69 FR 3834, Jan. 27, 2004]

### § 28.226 Removals of beer by agent on behalf of brewer.

Where proper power of attorney authorizing an agent to execute a claim on behalf of the brewer has been filed with the appropriate TTB officer, such agent may, for any of the purposes authorized in § 28.221, remove taxpaid beer from the brewery where produced or from its place of storage elsewhere, and execute the notice and claim on Form 1582–B (5130.6) on behalf of the brewer. On removal of the beer, such agent shall dispose of Form 1582–B in accordance with the applicable procedure set forth in § 28.225.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

[25 FR 5734, June 23, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975. Redesignated and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.227 Removals of beer by persons other than the brewer or agent of the brewer.

Where there is a removal of taxpaid beer by a person other than the brewer or the agent of the brewer for any of the purposes authorized in § 28.221, such person shall execute the notice, only, on Form 1582–B (5130.6). Where the removal consists of the products of more than one brewer, separate Forms 1582–B shall be prepared for the products of each brewer. On removal of the beer for shipment such person shall forward two copies of Form 1582–B (5130.6) to the producing brewer, and immediately forward the original and one copy of the form as prescribed in § 28.225(a), (b), or (c), as the case may be. On receipt of the two copies of Form 1582–B (5130.6) from the exporter, the brewer shall, if he wishes to claim drawback on the beer covered thereby, execute the claim for drawback on both copies of

the form, file one copy of the claim with the appropriate TTB officer, and retain the remaining copy for his files.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

[25 FR 5734, June 23, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975. Redesignated and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

CONSIGNMENT, SHIPMENT, AND DELIVERY

### § 28.230 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of taxpaid beer removed under this subpart shall be made under the provisions of subpart M of this part.

(72 Stat. 1335; 26 U.S.C. 5055)

## Subpart M—Shipment or Delivery for Export

CONSIGNMENT

### § 28.241 Shipment for export, or for use on vessels.

All liquors and specially denatured spirits intended for export or liquors intended for use as supplies on vessels shall be consigned to the district director of customs at the port of exportation, or port of lading for supplies on vessels, except that when the shipment is for export to a contiguous foreign territory it shall be consigned to the foreign consignee at destination in care of the district director of customs at the port of export.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 28.242 Shipment for use on aircraft.

(a) *Distilled spirits and wine.* All distilled spirits and wines intended for use on aircraft shall be consigned to the airline at the airport from which the aircraft will depart in international travel, in care of the district director of customs. On receipt of the distilled spirits or wines they shall be stored at the airport under customs custody until laden on aircraft.

(b) *Beer.* Beer intended for use on aircraft shall be consigned to the district director of customs at the port of lading.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5214, 5362)

[25 FR 5734, June 23, 1969, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 28.243 Shipment to armed services.

On removal of distilled spirits, wines, or beer for export to the armed services of the United States, the shipment shall be consigned to the commanding officer or supply officer at the supply base or other place of delivery.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

### § 28.244 Shipment to manufacturing bonded warehouse.

Distilled spirits and wines withdrawn for shipment to a manufacturing bonded warehouse shall be consigned to the proprietor of such warehouse in care of the customs officer in charge of the warehouse.

(72 Stat. 1362, 1380; 26 U.S.C. 5214, 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71725, Dec. 11, 1979]

### § 28.244a Shipment to a customs bonded warehouse.

Distilled spirits and wine withdrawn for shipment to a customs bonded warehouse shall be consigned in care of the customs officer in charge of the warehouse.

(Sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066); sec. 2, Pub. L. 96–601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF–88, 46 FR 39816, Aug. 5, 1981]

### § 28.245 Shipment to foreign-trade zone.

Where distilled spirits (including specially denatured spirits), wines, or beer, are transferred to a foreign-trade zone for exportation or for storage pending exportation, the shipment shall be consigned to the Zone Operator in care of the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 81c, 26 U.S.C. 5214, 5362)

### § 28.246 Delivery for shipment.

The proprietor or exporter may deliver the shipment directly to the consignees designated in §§ 28.241 through 28.245, or he may deliver it to a carrier for transportation and delivery to such consignees, or, when the exportation is to a contiguous foreign country, to the foreign consignee.

(72 Stat. 1334, 1335, 1336, as amended, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[T.D. 7002, 34 FR 1599, Feb. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.247 Change in consignee.

Where a change of consignee is desired after the liquors (including specially denatured spirits) have been removed from the shipping premises, the exporter shall notify the appropriate officer to whom the shipment is required by §§ 28.241–28.245 to be consigned or in whose care it is required to be shipped, and forward a copy of such notification to the appropriate TTB officer. Such notice shall identify the withdrawal or claim form, as the case may be, covering the shipment.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[T.D. 7002, 34 FR 1599, Feb. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

## BILLS OF LADING

### § 28.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained and filed by the claimant or exporter with the appropriate TTB officer. Where the shipment consists of distilled spirits for deposit in a customs bonded warehouse, or distilled spirits or wines, for deposit in a foreign-trade zone, with benefit of drawback, and the principal has filed bond, Form 2738 (5110.68), a copy of the transportation bill of lading covering the shipment shall be obtained and filed by the claimant or exporter with the appropriate TTB officer: *Provided*, That such transportation bill of lading will not be required when delivery is made directly to the foreign-trade zone or the customs bonded warehouse by the shipper. Bills of lading shall be signed by the carrier or by an agent of the carrier and shall contain the following minimum information:

(a) As to spirits specially denatured spirits, and wines:

(1) The name of the exporter (if different from the shipper),

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading),

(3) The number of packages or cases,

(4) The serial number of the TTB Form 5100.11, 5110.30, or 1582–A (5120.24), as the case may be, and

(5) The total quantity in wine gallons or liters,

(b) As to beer:

(1) The name of the shipper,

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading), and

(3) The number and size of containers.

Where a copy of an export bill of lading or a copy of the through bill of lading is required and is not obtainable, a certificate given by an agent of such carrier, as prescribed in § 28.253, may be procured and transmitted by the claimant or exporter to the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, 1335, 1336, as amended, 1362, 1380, (26 U.S.C. 5053, 5055, 5062, 5214, 5362); sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066))

[T.D. 7002, 34 FR 1599, Feb. 1, 1969, as amended by 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.250, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.251 Railway express receipts.

Where the exportation is to a contiguous foreign country and the shipment is by railway express, a receipt issued by the railway express agency may be accepted in lieu of an export bill of lading if the receipt furnishes all of the information required in an export bill of lading.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

### § 28.252 Air express or freight bills of lading.

Where the exportation is made by air express or air freight, a bill of lading issued by the conveying airline is considered for the purpose of this part to be an export bill of lading if it otherwise conforms to the requirements of § 28.250.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[T.D. 7002, 34 FR 1599, Feb. 1, 1969, as amended by 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.253 Certificate by export carrier.

A certificate, executed under the penalties of perjury, by an agent or representative of the export carrier, showing actual exportation of the liquors (including specially denatured spirits) may be furnished by an exporter as evidence of exportation. The certificate shall contain a description of the shipment, including the serial number of the withdrawal form, or the claim and entry form, as the case may be, the name of the exporter, the name of the consignee, the date received, the place where received by such carrier, and the name of the carrier from which received.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

## Subpart N—Proceedings at Ports of Export

### § 28.261 Notice to district director of customs.

On arrival at the port of exportation, of distilled spirits (including specially denatured spirits), wines, or beer, withdrawn or shipped for exportation or for use on vessels or aircraft, the exporter or his agent shall immediately notify the director of the port. At the same time, or prior thereto, the exporter or his agent shall file with the director two copies of the application, claim, or notice, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, covering the shipment: *Provided*, That where the shipment is for direct exportation, such forms shall be filed at least six hours prior to lading.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.261, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.262 Delay in lading at port.

If, on arrival of a shipment withdrawn for export without payment of tax or free of tax, the exporting vessel is not prepared to receive the shipment, the district director of customs may permit such shipment to remain in possession of a carrier for a period not exceeding 30 days. Storage elsewhere for a like cause, and not exceeding the same period, may be approved by the district director of customs. In the event of further delay, the facts shall be reported to the appropriate TTB officer, who shall issue appropriate instructions concerning the disposition of the shipment.

(72 Stat. 1334, 1362, 1380; 26 U.S.C. 5053, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.263 [Reserved]

### § 28.264 Lading for exportation.

On receipt of the notifcation required in § 28.261, the district director of customs shall deliver both copies of the application, claim, or notice, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, covering the shipment, together with any forms which may be attached thereto, to a customs officer for inspection and supervision of lading. Such shipment shall be subject to the same requirements for inspection and supervision of lading at the port of exportation as may be required by Customs Regulations (19 CFR chapter I) in the case of similar shipments of imported merchandise to be exported in customs bond. When an inspection of the shipment is made before it is laden

on board the exporting carrier and such inspection discloses any discrepancy, the customs officer shall make note of the nature and extent of the discrepancy on each copy of the application, claim, or notice, TTB Form 5110.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, and where the discrepancy involves one or more packages of distilled spirits or wine, he shall prepare customs Form 6001 in accordance with the instructions in § 28.291, and attach the original and copy of customs Form 6001 to the original and copy of the appropriate transaction form. The forms shall be disposed of according to the instructions thereon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended, 1336, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5053, 5055, 5062, 5214, 5362))

[T.D. ATF–198, 50 FR 8562, Mar. 1, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.264, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.265 Evidence of fraud.

If the customs inspection discloses evidence of fraud, the customs officer shall detain the merchandise and notify the district director of customs who shall report the facts forthwith to the appropriate TTB officer. The appropriate TTB officer shall make investigation and take such action as the facts may warrant. Where the detained merchandise has been withdrawn for transfer and deposit in a manufacturing bonded warehouse, the merchandise shall be deemed not to have been deposited in said warehouse, and the designated officer shall hold in abeyance the processing of TTB Form 5100.11 until advised by the district director of customs that the detained merchandise may be entered for deposit. Where the detained merchandise has been withdrawn or entered for deposit in a foreign-trade zone or a customs bonded warehouse, it shall be deemed to not have been deposited in the zone or the warehouse and the customs officer shall hold in abeyance the processing of the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, and Zone Form D, until advised by the district director of customs that the detained merchandise may be entered for deposit.

(48 Stat. 999, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5053, 5055, 5062, 5214, 5362, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71725, Dec. 11, 1979; T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.266 Release of detained merchandise.

When any merchandise has been detained under the provisions of § 28.265, the district director of customs shall not release such merchandise until he is advised so to do by the appropriate TTB officer.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.267 Exportation from interior port.

Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may, subject to approval of the district director of customs, be entered for exportation at an interior customs port. Subject to such approval, the inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of U.S. Customs regulations (19 CFR chapter I). On completion of the lading, the seals shall be affixed and the customs officer shall execute the certificate of lading on both copies of the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6) or 1689 (5130.12), as the case may be, and forward them, with attachments (if any), to the district director of customs at the interior port of entry. The district director of customs shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form

has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the district director of customs at the interior port of entry.

[T.D. ATF–198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.268 Receipt for liquors for use on vessels or aircraft.

Where liquors are withdrawn or removed for use on vessels or aircraft, the exporter shall procure and forward to the appropriate TTB officer, a receipt executed under the penalties of perjury by the master or other authorized officer of the vessel, steamship company, or airline, as the case may be. The receipt shall give the number of containers, the serial numbers of the containers (if any), and the quantity received, and shall show that the liquors are in customs custody and have been or will be laden on board the vessel or aircraft, that they will be lawfully used on board the vessel or aircraft, and that no portion of the shipment has been or will be unladen in the United States or any of its territories or possessions. A receipt is not required, in the case of any shipment for use on vessels, when the liquors are laden on vessels of war, or, in cases other than supplies for vessels employed in the fisheries, where the amount of the tax on the liquors does not exceed $200. In the case of supplies for vessels employed in the fisheries, compliance with the provisions of § 28.22 is also required.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, as amended, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[T.D. 7002, 34 FR 1600, Feb. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.269 Certification by district director of customs.

(a) *Exportation.* When the district director of customs is satisfied that merchandise described on the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, has been laden and cleared for export, he shall execute his certificate of lading and clearance on both copies of the form.

(b) *Distilled spirits and wines as supplies on vessels and aircraft.* When the district director of customs is satisfied that the distilled spirits and wines described on TTB Form 5100.11, 5110.30, or 1582–A (5120.24), as the case may be, have been duly laden for use on vessels and aircraft, and that proper accounting for such spirits or wines has been submitted to him as required by this part, he shall execute his certificate of lading for use on both copies of the form.

(c) *Disposition of forms.* After executing his certificate, the district director of customs shall forward the original of TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be, with attachments (if any), to the appropriate TTB officer designated on the form, and retain the remaining copy, with any attached forms, for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.269, see the List of CFR Sections Affected in the Finding Aids section of this volume.

## RECEIPT BY ARMED SERVICES

### § 28.275 Receipt by armed services.

When liquors which have been withdrawn or removed for export to the armed services of the United States are received at the supply base or other designated place of delivery, the officer to whom consigned, or other authorized supply officer, at the supply base or other place of delivery shall enter the quantity of liquors received on both copies of the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be. After signing the form, he shall forward the original with attachments, if any, to the appropriate TTB officer designated

on the form, and retain the other copy for his records.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

LADING FOR USE ON AIRCRAFT

### § 28.280 Distilled spirits and wines.

When an airline desires to withdraw distilled spirits or wines from its stock being held at the airport under customs custody, for use on a particular aircraft, a requisition in triplicate shall be prepared for presentation to the customs officer. The requisition shall show the flight number, the registry number of the aircraft on which the distilled spirits or wines are to be laden, the country for which the aircraft is to be cleared, the date of departure of the aircraft, and the brand, kind, and quantity of distilled spirits or wines. Where the distilled spirits or wines are contained in kits which have been previously prepared while under customs custody, the kit number shall also be shown on the requisition. Where the kits are not prepared and the distilled spirits or wines are withdrawn for direct lading on aircraft, the requisition shall be serially numbered in lieu of the insertion of the kit number. When the distilled spirits or wines are withdrawn and laden aboard the aircraft, the lading shall be verified by the customs officer by an appropriate stamp or notation on the requisition. One copy of the requisition shall be retained by the customs officer who certifies to the lading for attachment to the outgoing manifest. The other two copies shall be delivered to the airline which shall retain both copies until the return of the flight. In case any of the distilled spirits or wines are removed from the aircraft on its return, they shall be returned to customs custody, appropriate notation made on both copies of the requisition retained by the airline and one copy shall be delivered to the customs officer for attachment to the incoming manifest. The remaining copy shall be retained by the airline.

(Approved by the Office of Management and Budget under control number 1512–0384)

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984]

### § 28.281 Certificate of use for distilled spirits and wines.

When all of the distilled spirits or wines represented by a single application, notice, or claim, TTB Form 5100.11, 5110.30, or 1582–A (5120.24), as the case may be, have been withdrawn from customs custody and laden and used on aircraft, the airline shall prepare a certificate of use on which are itemized all the requisitions pertaining to such distilled spirits or wines. The certificate shall be executed under the penalties of perjury by an officer of the airline and shall show the name of the exporter, the entry number, the brand and kind of distilled spirits or wines, and the number of bottles to be accounted for; and, as to each requisition, the requisition (or kit) number, the date laden, the registry number of the aircraft, the country for which the aircraft was cleared, and the number of bottles used. When completed, the certificate shall be presented to the customs officer at the airport who shall then execute his certificate on both copies of the appropriate application, notice, or claim, TTB Form 5100.11, 5110.30, or 1582–A (5120.24), as the case may be, noting thereon any exception, such as shortages or breakage. The customs officer shall then attach the certificate of use to the copy of the appropriate form and forward both copies of the form to the district director of customs.

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.281, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 28.282 Beer.

When beer has been laden on board the aircraft for use as supplies, the customs officer shall execute his certificate on both copies of the Form 1582–B (5130.6) or Form 1689 (5130.12), as the case may be, forward the original to the appropriate TTB officer designated on the form, and retain the copy for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN MANUFACTURING BONDED WAREHOUSE

### § 28.285 Receipt in manufacturing bonded warehouse.

On receipt of the distilled spirits or wines, the related TTB Form 5100.11 (with any attachments), such inspection as is necessary will be made to establish that the shipment corresponds with its description on TTB Form 5100.11 (and any attachments) and customs Form 6001 will be prepared according to § 28.291. Any discrepancy disclosed by the inspection and gauge will be noted on each copy of TTB Form 5100.11. When the shipment corresponds with the description of TTB Form 5100.11 (and any attachments), the certificate of deposit will be executed on both copies of TTB Form 5100.11 and the original of TTB Form 5100.11 (and any attachments) and the original of his customs Form 6001 will be forwarded to the appropriate TTB officer. The remaining copies shall be kept on file.

(Sec. 201. Pub. L. 85–859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

[T.D. ATF–198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN CUSTOMS BONDED WAREHOUSE

### § 28.286 Receipt in customs bonded warehouse.

On receipt of the distilled spirits or wine and the related TTB Form 5100.11 or 5110.30 as the case may be, the customs officer in charge of the customs bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on the appropriate form. The customs officer shall note on each copy of the Form 5100.11 or 5110.30, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected and that described on the form. Where the inspection discloses no loss, or where a loss is disclosed and there is no evidence to indicate fraud, the officer shall execute his certificate of deposit on both copies of the form, forward the original as required by the instructions on the form, and retain the remaining copy for his files.

(Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965 (26 U.S.C. 5066); sec. 2, Pub. L. 96–601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF–88, 46 FR 39816, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN FOREIGN-TRADE ZONE

### § 28.290 Receipt in foreign trade zone.

On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be. If the customs officer regauges spirits or wine in the course of his inspection, he shall prepare customs Form 6001 according to § 28.291. The customs officer shall note on both copies of the TTB Form 5100.11, 5110.30, 1582–A (5120.24), 1582–B (5130.6), or 1689 (5130.12), as the case may be any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the appropriate TTB officer:

(a) Original of the deposit from (with any attachments); and

(b) Original of the officer's customs Form 6001, if any. The remaining copy of the deposit form (with any attachments), and the copy of any customs Form 6001, shall be retained by the customs officer for his files.

(48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5062, 5214, 5362))

[T.D. ATF–198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

CUSTOMS GAUGE

### § 28.291 Customs Form 6001.

When spirits or wines are gauged as required in §§ 28.264, 28.285, or 28.290, the customs officer shall prepare in duplicate customs Form 6001 to show:

(a) Date;

(b) Name of exporter;

(c) Serial number and designation of the related transaction form;

(d) Kind of liquor (show whether alcohol, whiskey, brandy, rum, gin, vodka, wine, etc.);

(e) Name and registry number of producer;

(f) If gauged under § 28.264, the location of the port;

(g) If gauged under § 28.285, the location and number of the manufacturing bonded warehouse;

(h) If gauged under 28.290, the location and number of the foreign-trade zone;

(i) Kind and serial numbers or lot identification numbers of containers; and

(j) For each container:

(1) Proof of spirits, or percent of alcohol by volume in wine;

(2) Proof gallons, if spirits;

(3) Wine gallons, if wine; and

(4) Variation from the last gauge (proof, percent of alcohol by volume or wine gallons).

[T.D. ATF–198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

ALTERNATE PROCEDURES

### § 28.295 Exception for export of beer.

The provisions of this subpart do not apply in the case of beer when the exporter or claimant obtains proof of exportation other than certification by the military or customs certification of lading and use under § 28.43. Brewers and exporters shall prepare Forms 1582–B (5130.6) or 1689 (5130.12), as applicable, to cover exportation of beer, but customs or military certification on them is not required when other proof of exportation is used.

[LT.D.ATF–224, 51 FR 7700, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

## Subpart O—Losses

DISTILLED SPIRITS

### § 28.301 Loss of distilled spirits in transit.

The tax on distilled spirits withdrawn without payment of tax under this part and which are lost during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, (b) the manufacturing bonded warehouse, (c) the vessel or aircraft, (d) the foreign-trade zone, or (e) the customs bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the appropriate TTB officer establishes that such distilled spirits have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That such remission in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.302 Notice to exporter.

If, on examination of the TTB Form 5100.11 (and attached gauge reports, if any) received from the officer required to certify the same under the provisions of subpart N of this part, the appropriate TTB officer is of the opinion that the distilled spirits reported lost

had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:

(a) Of the identity of the containers;

(b) Of the amount of the loss;

(c) Of the circumstances indicating diversion or theft;

(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of 26 U.S.C. 5008 (a) and (f), and (2) claim for remission of the tax on the spirits so lost; and

(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which distilled spirits are lost during transportation, as described in § 28.301, whether by theft or otherwise, the appropriate TTB officer may require the exporter to file a claim for relief in accordance with § 28.303. When circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the appropriate TTB officer. Where such proof and claim are not filed within the 30-day period, or such extensions as the appropriate TTB officer may grant, the tax on the distilled spirits diverted or lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55854, Sept. 28, 1979; T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.303 Filing of claims.

Claims, for remission of tax on the distilled spirits under § 28.301, shall be filed on Form 2635 (5620.8), in duplicate, and shall set forth the following:

(a) Name, address, and capacity of the claimant;

(b) Identification (including serial numbers, if any) and location of the container or containers from which the spirits were lost;

(c) Quantity of spirits lost from each container, and the total quantity of spirits covered by the claim;

(d) Total amount of tax for which the claim is filed;

(e) The date, penal sum, and form number of the bond under which withdrawal and shipment were made;

(f) Name, number, and address of the distilled spirits plant from which withdrawn without payment of tax;

(g) Date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;

(h) Name of the carrier;

(i) If lost by theft, facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(j) In the case of a loss by theft, whether the claimant is indemnified or recompensed in respect of the tax on the spirits lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the spirits, less the tax.

The claim shall be executed by the exporter or his authorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The appropriate TTB officer may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1323; 26 U.S.C. 6065, 5008)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.304 Action on claim.

The appropriate TTB officer will allow or disallow claims filed under § 28.303 in accordance with existing law and regulations. If the appropriate TTB officer finds that there has been a diversion or theft of the distilled spirits as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them, the tax on the distilled spirits diverted or

lost by theft will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(68A Stat. 867, 72 Stat. 1323; 26 U.S.C. 7302, 5008)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

SPECIALLY DENATURED SPIRITS

### § 28.310 Loss of specially denatured spirits in transit.

Losses of specially denatured spirits withdrawn free of tax under this part during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, or (b) the foreign-trade zone, as the case may be, may be allowed if evidence satisfactory to the appropriate TTB officer establishes that such specially denatured spirits have not been unlawfully diverted, or lost by theft as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. The giving of notice to the exporter, filing claims for allowance of loss, and action on the claims shall be, insofar as applicable, in accordance with the procedure prescribed in §§ 28.302 through 28.304.

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

WINE

### § 28.315 Loss of wine in transit.

The tax on wine withdrawn without payment of tax under this part and which is lost during transportation from the bonded wine cellar from which withdrawn to (a) the port of export, (b) the vessel or aircraft, (c) the foreign-trade zone, (d) the manufacturing bonded warehouse, or (e) the customs bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the appropriate TTB officer establishes that such wine has not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them. However, the remission of tax on wine withdrawn without payment of tax under this part and which is lost while in transit may be allowed only to the extent that the claimant is not indemnified or recompensed for such tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, 1382 (26 U.S.C. 5370, 5371))

[T.D. ATF–88, 46 FR 39816, Aug. 5, 1981, as amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.316 Notice to exporter.

If, on examination of the TTB Form 5100.11 received from the officer required to certify the same under the provisions of subpart N, the appropriate TTB officer is of the opinion that wine reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:

(a) Of the identity of the containers;

(b) Of the amount of the loss;

(c) Of the circumstances indicating diversion or theft;

(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of 26 U.S.C. 5370, and (2) claim for remission of the tax on the wine so lost; and

(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which wines are lost during transportation, as described in § 28.315, whether by theft or otherwise, the appropriate TTB officer may require the exporter to file a claim for relief in accordance with § 28.317. Where circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the appropriate TTB officer. Where such proof and claim are not filed within the 30-day period, or such extensions as the appropriate TTB officer may grant, the tax on the wine diverted or

lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55854, Sept. 28, 1979; T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.317 Filing of claims.

Claims, for remission of tax on the wine under § 28.315, shall be filed on Form 2635 (5620.8), in duplicate, and shall set forth the following:

(a) The name, address, and capacity of the claimant;

(b) The name, registry number, and location of the bonded wine cellar from which the wine was withdrawn;

(c) The date, penal sum, and form number of the bond under which withdrawal and shipment was made;

(d) Identification (including serial numbers, if any) and location of the container or containers from which the wine was lost;

(e) The quantity of wine lost from each container, and the total quantity of wine covered by the claim;

(f) The total amount of tax for which the claim is filed;

(g) The date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;

(h) Name of the carrier;

(i) If lost by theft, the facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(j) Whether the claimant is indemnified or recompensed in respect of the tax on the wine lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the wine, less the tax.

The claim shall be signed by the exporter or his authorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The appropriate TTB officer may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1381, 1382; 26 U.S.C. 6065, 5370, 5371)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

### § 28.318 Action on claim.

Action on claims filed under § 28.317 shall be, insofar as applicable, in accordance with the procedure prescribed in § 28.304.

(72 Stat. 1381; 26 U.S.C. 5370)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB–8, 69 FR 3834, Jan. 27, 2004]

## BEER AND BEER CONCENTRATE

### § 28.320 Loss of beer and beer concentrate in transit.

(a) *Losses not requiring inspection.* When, on receipt by the appropriate TTB officer of Form 1689 (5130.12) from the officer required to certify it under the provisions of subpart N of this part, it is disclosed that there has been a loss of beer or beer concentrate after removal from the brewery without payment of tax while in transit to the port of export, the vessel or aircraft, or the foreign-trade zone, and the report of the certifying officer shows that the loss was a normal one caused by casualty, leakage, or spillage, the appropriate TTB officer will allow the loss.

(b) *Losses requiring inspection.* When it is disclosed that the loss of beer or beer concentrate is large or unusual, the appropriate TTB officer will conduct an investigation of the loss. When it is disclosed that the loss in transit has occurred by reason of casualty, leakage or spillage, credit for the loss will be allowed. When the investigation discloses evidence indicating that the loss resulted from theft or from fraud, the appropriate TTB officer will afford the brewer opportunity to submit a written explanation with respect to the causes of the loss before taking further action.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended, 1335, as amended (26 U.S.C. 5051, 5053, 5056))

[T.D. ATF–224, 51 FR 7700, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

### § 28.321 Tax assessed on loss not accounted for.

The appropriate TTB officer shall make demand on the brewer for an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on; (a) The quantity of beer not satisfactorily accounted for, or (b) the quantity of beer used to produce the quantity of beer concentrate which is not satisfactorily accounted for.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5053))

[T.D. ATF–224, 51 FR 7700, Mar. 5, 1986, as amended by T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

## Subpart P—Action on Claims

### § 28.331 Claims supported by bond, Form 2738 (5110.68).

On receipt of a claim for drawback of tax on distilled spirits or wines on which the tax has been determined, and of the evidence of exportation required by § 28.40, or of lading for use on vessels or aircraft required by § 28.41, or of deposit in a foreign-trade zone or of deposit of distilled spirits in a customs bonded warehouse, as required by § 28.42, as the case may be, the appropriate TTB officer shall, if a good and sufficient bond has been filed as provided in § 28.65, and the notice of removal has been properly completed, allow the claim in accordance with the rate of drawback established in respect of the particular spirits or wines on which claim is based and charge the amount allowed against the bond. On receipt of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, and, in the case of claims on Form 1582–A (5120.24), the certificate of tax determination, Form 2605 (5120.20), the appropriate TTB officer shall give appropriate credit to the bond.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

### § 28.332 Claim against bond.

When any claim supported by a bond has been allowed and changed against the bond under the provisions of § 28.331, and the original of the claim properly executed by the appropriate customs official or armed services officer as required by this part is not received by the appropriate TTB officer within three months of the date the claim was allowed, or where the distilled spirits or wines are not otherwise accounted for in accordance with this part, the appropriate TTB officer shall advise the claimant of the facts, and notify him that unless the original of the claim, properly executed as required by this part, is received by the appropriate TTB officer within 30 days, a written demand will be made upon the principal and the surety for repayment to the United States of the full amount of the drawback, plus interest at the rate prescribed by law from the time the drawback was paid. However, the appropriate TTB officer may, if in his opinion the circumstances warrant it, grant the claimant any additional extension of time beyond 30 days as may be necessary to accomplish the required filing.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336 as amended, (26 U.S.C. 5062))

[T.D. ATF–70, 45 FR 33981, May 21, 1980, as amended by T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

### § 28.333 Where no bond is filed.

Where a claim for drawback of tax on distilled spirits or wines on TTB Form 5110.30 or 1582–A (5120.24), is not supported by a bond on Form 2738 (5110.68), and in all cases where claim for drawback of tax on beer is made on Form 1582–B (5130.6), the appropriate TTB officer shall, on receipt by him of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, examine the claim to determine that it has been properly completed. He shall then, on receipt of the evidence of exportation required by § 28.40, or of lading for use on vessels or aircraft required by § 28.41, or of deposit in a foreign-trade zone or a customs bonded warehouse as required by § 28.42, as the case may be, and, in the case of

claims on Form 1582–A (5120.24), the certificate of tax determination, Form 2605 (5120.20), allow the claim in the amount of the tax paid on the beer or the tax paid or determined on the distilled spirits or wines on which the claim is based and which were exported, laden as supplies on vessels or aircraft, or deposited in a foreign-trade zone or a customs bonded warehouse, as the case may be.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1335, 1336, 84 Stat. 1965; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5055, 5062, 5066)

[T.D. 7112, 36 FR 8584, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

### § 28.334 Credit allowance.

Where the credit relates to internal revenue taxes on beer that have been determined but not yet paid by the claimant, the appropriate TTB officer will notify the claimant in writing. Where the credit relates to tax determined distilled spirits, procedure for taking the credit shall be in accordance with the procedures set forth in part 19 of this chapter. Where the credit relates to tax-determined wines, procedure for taking the credit shall be in accordance with the procedures set forth in part 24 of this chapter. No credit may be given for drawback of the tax on beer nor may one class of tax be credited to another.

(72 Stat. 1336; 26 U.S.C. 5062)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

### § 28.335 Disallowance of claim.

If a claim for drawback of tax is not allowed in full, the appropriate TTB officer shall notify the claimant in writing of the reasons for any disallowance.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335, 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055, 5062)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69 FR 3835, Jan. 27, 2004]

# PART 29—STILLS AND MISCELLANEOUS REGULATIONS

## Subparts A–B [Reserved]

## Subpart C—Stills

Sec.
29.41 Scope of subpart.
29.42 Delegations of the Administrator.
29.43 Forms prescribed.
29.45 Meaning of terms.
29.47 Notice requirement; manufacture of stills.
29.49 Notice requirement; setup of still.
29.51 Failure to give notice; penalty.
29.53 Identification of distilling apparatus.
29.55 Registry of stills and distilling apparatus.
29.57 Failure to register; penalty.
29.59 Records.

## Subparts D–Y [Reserved]

EDITORIAL NOTE: Nomenclature changes to part 29 appear by T.D. ATF–462, 66 FR 42737, Aug. 15, 2001.

## Subparts A–B [Reserved]

## Subpart C—Stills

AUTHORITY: 26 U.S.C. 5002, 5101, 5102, 5179, 5291, 5601, 5615, 5687, 7805.

SOURCE: T.D. ATF–207, 50 FR 23682, June 5, 1985, unless otherwise noted. Redesignated by T.D. ATF–462, 66 FR 42737, Aug. 15, 2001.

### § 29.41 Scope of subpart.

The regulations in this subpart relate to the manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor.

### § 29.42 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.29, Delegation of the Administrator's Authorities in 27 CFR Part 29, Stills and Miscellaneous Regulations. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue

Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16947, Apr. 4, 2006]

### § 29.43 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms, including all notices and records, required by this subpart. 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 subpart. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(Pub. L. 89–554, 80 Stat. 383, as amended (5 U.S.C. 552))

[T.D. ATF–207, 50 FR 23682, June 5, 1985; 50 FR 28572, July 15, 1985; T.D. ATF–439, 66 FR 8769, Feb. 2, 2001; T.D. TTB–44, 71 FR 16947, Apr. 4, 2006]

### § 29.45 Meaning of terms.

When used in this subpart and in the forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words in the masculine shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.29, Delegation of the Administrator's Authorities in 27 CFR Part 29, Stills and Miscellaneous Regulations.

*Distilling spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced).

*Distilling.* The conduct by any person of operations that constitute, as defined by 26 U.S.C. 5002, operations as a distiller. Such operations include: (a) The original manufacture of distilled spirits from mash, wort, or wash, or any materials suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits; (d) the distillation, redistillation, or recovery of spirits, denatured spirits, or articles containing spirits or denatured spirits; and (e) the redistillation or recovery of tax-free spirits.

*Distilling apparatus.* A still or condenser, as defined in this section, and any other apparatus to be used for the purpose of distilling.

*Executed under the penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to any document prescribed under this subpart or, where no form of declaration is prescribed, with the declaration: ''I declare under the penalties of perjury that this _____ (insert type of document), including the documents submitted in support thereof, has been examined by me and, to best of my knowledge and belief, is true, correct and complete.''

*Manufacturer of stills.* Any person who manufactures any still or condenser, as defined in this section, or any other apparatus to be used for the purpose of distilling. The term includes a person furnishing separate parts of a complete still or condenser, of any kind, to a person who assembles same into a still or condenser for distilling and a person who procures materials or apparatus and converts same into a still or condenser for distilling.

*Person.* An individual, a trust, estate, partnership, association, company, or corporation.

*Still.* Any apparatus capable of being used for separating alcoholic or spirituous vapors, or spiritous solutions, or spirits, from spirituous solutions or mixtures, but shall not include stills used for laboratory purposes or stills used for distilling water or other nonalcoholic materials where the cubic distilling capacity is one gallon or less.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

*United States.* The several states and the District of Columbia.

*U.S.C.* The United States Code.

[T.D. ATF–207, 50 FR 23682, June 5, 1985; 50 FR 28572, July 15, 1985, as amended by T.D. ATF–439, 66 FR 8770, Feb. 2, 2001; T.D. TTB–44, 71 FR 16947, Apr. 4, 2006]

### § 29.47 Notice requirement; manufacture of stills.

(a) *General.* When required by letter issued by the appropriate TTB officer and until notified to the contrary by the appropriate TTB officer, every person who manufactures any still, boiler (double or pot still), condenser, or other apparatus to be used for the purpose of distilling shall give written notice before the still or distilling apparatus is removed from the place of manufacture.

(b) *Preparation.* The notice will be prepared in letter form, executed under the penalties of perjury, and show the following information:

(1) The name and address of the manufacturer;

(2) The name and complete address of the person by whom the apparatus is to be used, and of any other person for, by, or through whom the apparatus is ordered or disposed of;

(3) The distilling purpose for which the apparatus is to be used (distillation of spirits, redistillation of spirits or recovery of spirits, including denatured spirits and articles containing spirits or denatured spirits);

(4) The manufacturer's serial number of the apparatus;

(5) The type and kind of apparatus;

(6) The distilling capacity of the apparatus; and

(7) The date the apparatus is to be removed from the place of manufacture.

(c) *Filing.* The notice will be filed in accordance with the instructions in the letter of the appropriate TTB officer. A copy of the notice will be retained at the place of manufacture as provided by § 29.59.

(Approved by the Office of Management and Budget under control number 1512–0341)

(Sec. 843, Pub. L. 98–369, 98 Stat. 818 (26 U.S.C. 5101))

[T.D. ATF–207, 50 FR 23682, June 5, 1985; 50 FR 28572, July 15, 1985; T.D. ATF–439, 66 FR 8769, Feb. 2, 2001]

### § 29.49 Notice requirement; setup of still.

(a) *General.* When required by letter issued by the appropriate TTB officer, no still, boiler (double or pot still), condenser, or other distilling apparatus may be set up without the manufacturer of the still or distilling apparatus first giving written notice of that purpose.

(b) *Preparation.* The notice will be prepared by the manufacturer in letter form, executed under the penalties of perjury, and will contain the information specified in the letter of the appropriate TTB officer.

(c) *Filing.* The notice will be filed in accordance with the instructions in the letter of the appropriate TTB officer. A copy of the notice will be retained at the manufacturer's place of business as provided by § 29.59.

(Approved by the Office of Management and Budget under control number 1512–0341)

(Sec. 843, Pub. L. 98–369, 98 Stat. 818 (26 U.S.C. 5101))

[T.D. ATF–207, 50 FR 23682, June 5, 1985, as amended by T.D. ATF–439, 66 FR 8769, Feb. 2, 2001]

### § 29.51 Failure to give notice; penalty.

Failure to give notice of manufacture of still or notice of setup of still when required to do so is punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both, and any still, boiler (double or pot still), condenser, or other distilling apparatus to be used for the purpose of distilling which is removed or set up without the required notice having been given is forfeitable to the Government.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1405, as amended, 1412, as amended (26 U.S.C. 5615, 5687))

### § 29.53 Identification of distilling apparatus.

(a) *General.* Each still or condenser manufactured will be identified by the manufacturer as follows:

(1) Name of manufacturer.

(2) Address of manufacturer.

(3) Manufacturer's serial number for the apparatus.

(b) *Marking requirements.* The apparatus will be identified in a legible and durable manner. The required identification marks will be placed on the apparatus in a location where they will not be obscured or concealed.

### § 29.55 Registry of stills and distilling apparatus.

(a) *General.* Every person having possession, custody, or control of any still or distilling apparatus set up shall, immediately on its being set up, register the still or distilling apparatus, except that a still or distilling apparatus not used or intended for use in the distillation, redistillation, or recovery of distilled spirits is not required to be registered. Registration may be accomplished by describing the still or distilling apparatus on the registration or permit application prescribed in this chapter for qualification under 26 U.S.C. chapter 51 or, if qualification is not required under 26 U.S.C. chapter 51, on a letter application, and filing the application with the appropriate TTB officer. Approval of the application by the appropriate TTB officer will constitute registration of the still or distilling apparatus.

(b) *When still is set up.* A still will be regarded as set up and subject to registry when it is in position over a furnace, or connected with a boiler so that heat may be applied, irrespective of whether a condenser is in position. This rule is intended merely as an illustration and should not be construed as covering all types of stills or condensers requiring registration.

(c) *Change in location or ownership.* Where any distilling apparatus registered under this section is to be removed to another location, sold or otherwise disposed of, the registrant shall, prior to the removal or disposition, file a letter notice with the appropriate TTB officer. The letter notice will show the intended method of disposition (sale, destruction, or othewise), the name and complete address of the person to whom disposition will be made, and the purpose for which the apparatus will be used. After removal, sale, or other disposal, the person having possession, custody, or control of any distilling apparatus intended for use in distilling shall immediately register the still or distilling apparatus on its being set up or, if already set up, immediately on obtaining possession, custody, or control. The registrant shall also comply with the procedures prescribed in this chapter for amendment of the registration or permit application.

(Approved by the Office of Management and Budget under control number 1512–0341)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5179))

[T.D. ATF–207, 50 FR 23682, June 5, 1985; 50 FR 28572, July 15, 1985; 50 FR 30821, July 30, 1985, as amended by T.D. ATF–439, 66 FR 8770, Feb. 2, 2001]

### § 29.57 Failure to register; penalty.

Any person having possession, custody, or control of any still or distilling apparatus set up who fails to register the still or distilling apparatus is subject to a fine of not more than $10,000 or imprisonment of not more than 5 years, or both, and the still or distilling apparatus is forfeitable to the Government.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1398, as amended, 1405, as amended (26 U.S.C. 5601, 5615))

### § 29.59 Records.

A copy of each notice of manufacture, or set up, of still required under the provisions of § 29.47, or 29.49, shall be maintained, in chronological order, by the manufacturer at the premises where the still or distilling apparatus is manufactured. In addition, each manufacturer or vendor of stills shall maintain at their premises a record showing all stills and distilling apparatus (including those to be used for purposes other than distilling) manufactured, received, removed, or otherwise disposed of. The record will also show the name and address of the purchaser and the purpose for which each

apparatus is to be used. Any commercial document on which all the required information has been recorded may be used for the record. The records will be kept available for a period of three years for inspection by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512–0341)

[T.D. ATF–207, 50 FR 23682, June 5, 1985, as amended by T.D. ATF–439, 66 FR 8770, Feb. 2, 2001]

## Subparts D–Y [Reserved]

# PART 30—GAUGING MANUAL

### Subpart A—Scope of Regulations

Sec.
30.1 Gauging of distilled spirits.

### Subpart B—Definitions

30.11 Meaning of terms.

### Subpart C—Gauging Instruments

30.21 Requirements.
30.22 Hydrometers and thermometers.
30.23 Use of precision hydrometers and thermometers.
30.24 Specific gravity hydrometers.
30.25 Use of precision specific gravity hydrometers.

### Subpart D—Gauging Procedures

30.31 Determination of proof.
30.32 Determination of proof obscuration.

DETERMINATION OF QUANTITY

30.36 General requirements.

DETERMINATION OF QUANTITY BY WEIGHT

30.41 Bulk spirits.
30.42 Denatured spirits.
30.43 Packaged spirits.
30.44 Weighing containers.
30.45 Withdrawal gauge for packages.

DETERMINATION OF QUANTITY BY VOLUME

30.51 Procedure for measurement of bulk spirits.
30.52 Procedure for measurement of cased spirits.

### Subpart E—Prescribed Tables

30.61 Table 1, showing the true percent of proof spirit for any indication of the hydrometer at temperatures between zero and 100 degrees Fahrenheit.
30.62 Table 2, showing wine gallons and proof gallons by weight.
30.63 Table 3, for determining the number of proof gallons from the weight and proof of spirituous liquor.
30.64 Table 4, showing the fractional part of a gallon per pound at each percent and each tenth percent of proof of spirituous liquor.
30.65 Table 5, showing the weight per wine gallon (at 60 degrees Fahrenheit) and proof gallon at each percent of proof of spirituous liquor.
30.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.
30.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit.

### Subpart F—Optional Gauging Procedures

30.71 Optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milliliters.
30.72 Recording obscuration by proprietors using the optional method for determination of proof.

AUTHORITY: 26 U.S.C. 7805.

SOURCE: T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 30 appear by T.D. ATF–438, 66 FR 5481, Jan. 19, 2001.

## Subpart A—Scope of Regulations

### § 30.1 Gauging of distilled spirits.

(a) *General.* This part relates to the gauging of distilled spirits. The term ''gauging'' means the determination of the proof and the quantity of distilled spirits. The procedures prescribed in or authorized under the provisions of this part, except as may be otherwise authorized in this chapter, shall be followed in making any determination of quantity or proof of distilled spirits required by or under the authority of regulations in this chapter. The tables referred to in subpart E of this part appear in the ''Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight'' as incorporated by reference in this part (see paragraph (c) of this section). These tables, together with their instructions, shall be used, wherever applicable, in making the necessary computations from gauge data.

(b) *Tables referred to in subpart E of this part.* Table 1 provides a method of correcting hydrometer indications at temperatures between 0 and 100 degrees Fahrenheit to true proof. If distilled spirits contain dissolved solids, temperature correction of the hydrometer reading by the use of this table would result in apparent proof rather than true proof. Tables 2 and 3 show the gallonage of spirituous liquor according to weight and proof. Table 4 shows the gallons per pound at each one-tenth proof from 1 to 200 proof. Table 5 shows the weight per wine gallon and proof gallon at each proof. Table 6 shows the volumes of alcohol and water and the specific gravity (air and vacuum) of spirituous liquor at each proof. Table 7 provides a means of ascertaining the volume (at 60 degree Fahrenheit) of spirits at various temperatures ranging from 18 degrees through 100 degrees Fahrenheit.

(c) *Incorporation by reference.* The ''Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight'' (Publication 5110.6; November 1978) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on March 23, 1981. This publication may be inspected at the National Archives and Records Administration (NARA), and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204); 80 Stat. 383, as amended (5 U.S.C. 552(a)))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended at 69 FR 18803, Apr. 9, 2004]

## Subpart B—Definitions

### §30.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.30, Delegation of the Administrator's Authorities in 27 CFR Part 30, Gauging Manual.

*Bulk conveyance.* Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the appropriate TTB officer, authorized for the conveyance of spirits (including denatured spirits) in bulk.

*CFR.* The Code of Federal Regulations.

*Container.* Any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring or conveying distilled spirits.

*Denatured spirits or denatured alcohol.* Spirits to which denaturants have been added pursuant to formulas prescribed in 27 CFR Part 21.

*Gallon or wine gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*I.R.C.* The Internal Revenue Code of 1954, as amended.

*Package.* Any cask, barrel, drum, or similar container approved under the provisions of this chapter.

*Proof.* The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

*Proof gallon.* A United States gallon of proof spirits, or the alcoholic equivalent thereof.

*Proof spirits.* That liquid which contains one-half its volume of ethyl alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-

thousandths (0.7939) in vacuum at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

*Spirits, spirituous liquor, or distilled spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, but not denatured spirits unless specifically stated. For the sole purpose of gauging wine and alcoholic flavoring materials on the bonded premises of a distilled spirits plant, such alcoholic ingredients shall have the same meaning described herein to spirits, spirituous liquor, or distilled spirits.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

*U.S.C.* The United States Code.

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–438, 66 FR 5481, Jan. 19, 2001; T.D. TTB–44, 71 FR 16947, Apr. 4, 2006]

## Subpart C—Gauging Instruments

### § 30.21 Requirements.

(a) *General.* The proof of distilled spirits shall be determined by the use of gauging instruments as prescribed in this part.

(b) *Proprietors.* Proprietors shall use only accurate hydrometers and thermometers that show subdivisions or graduations of proof and temperature which are at least as delimitated as the instruments described in § 30.22.

(c) *Appropriate TTB officers.* Appropriate TTB officers shall use only hydrometers and thermometers furnished by the Government. However, where this part requires the use of a specific gravity hydrometer, TTB officers shall use precision grade specific gravity hydrometers conforming to the provisions of § 30.24, furnished by the proprietor. However, the appropriate TTB officer may authorize the use of other instruments approved by the appropriate TTB officer as being equally satisfactory for determination of specific gravity and for gauging. From time to time appropriate TTB officers shall verify the accuracy of hydrometers and thermometers used by proprietors.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–438, 66 FR 5481, Jan. 19, 2001]

### § 30.22 Hydrometers and thermometers.

The hydrometers used are graduated to read the proof of aqueous alcoholic solutions at 60 degrees Fahrenheit; thus, they read, 0 for water, 100 for proof spirits, and 200 for absolute alcohol. Because of temperature-density relationships and the selection of 60 degrees Fahrenheit for reporting proof, the hydrometer readings will be less than the true percent of proof at temperatures below 60 degrees Fahrenheit and greater than the true percent of proof at temperatures above 60 degrees Fahrenheit. Hence, corrections are necessary for hydrometer readings at temperatures other than 60 degrees Fahrenheit. Precision hydrometers shall be used for gauging spirits. Hydrometers and thermometers shall be used and the true percent of proof shall be determined in accordance with § 30.31. Hydrometers are designated by letter according to range of proof and are provided in ranges and subdivisions of stems as follows:

| Precision | Range | Subdivision |
|---|---|---|
| F | 0 to 20 | 0.2° |
| G | 20 to 40 | 0.2° |
| H | 40 to 60 | 0.2° |
| I | 60 to 80 | 0.2° |
| K | 75 to 95 | 0.2° |
| L | 90 to 110 | 0.2° |
| M | 105 to 125 | 0.2° |
| N | 125 to 145 | 0.2° |
| P | 145 to 165 | 0.2° |
| Q | 165 to 185 | 0.2° |
| R | 185 to 206 | 0.2° |

Thermometers are designated by type according to range of degrees Fahrenheit and are provided in ranges and subdivisions of degrees as follows:

| Type | Range | Subdivision |
|---|---|---|
| Pencil type | 10° to 100° | 1° |
| V-back | 10° to 100° | 1° |
| Glass shell (earlier model) | 40° to 100° | ½° |
| Glass shell (later model) | 40° to 100° | ¼° |

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37003, July 16, 1996]

### § 30.23 Use of precision hydrometers and thermometers.

Care should be exercised to obtain accurate hydrometer and thermometer readings. In order to accomplish this result, the following precautions should be observed. Bulk spirits should be thoroughly agitated so that the test samples will be representative of the entire quantity. The hydrometers should be kept clean and free of any oily substance. Immediately before readings are taken, the glass cylinder containing the thermometer should be rinsed several times with the spirits which are to be gauged so as to bring both the cylinder and the thermometer to the temperature of the spirits (if time permits, it is desirable to bring both the spirits and the instruments to room temperature). If the outer surface of the cylinder becomes wet, it should be wiped dry to avoid the cooling effect of rapid evaporation. During the readings the cylinder should be protected from drafts or other conditions which might affect its temperature or that of the spirits which it contains. The hands should not be placed on the cylinder in such a manner as to warm the liquid contained therein. The hydrometer should be inserted in the liquid and the hydrometer bulb raised and lowered from top to bottom 5 or 6 times to obtain an even temperature distribution over its surface, and, while the hydrometer bulb remains in the liquid, the stem should be dried and the hydrometer allowed to come to rest without wetting more than a few tenths degrees of the exposed stem. Special care should be taken to ascertain the exact point at which the level of the surface liquid intersects the scale of proof in the stem of the hydrometer. The hydrometer and thermometer should be immediately read, as nearly simultaneously as possible. In reading the hydrometer, a sighting should be made slightly below the plane of the surface of the liquid and the line of sight should then be raised slowly, being kept perpendicular to the hydrometer stem, until the appearance of the surface changes from an ellipse to a straight line. The point where this line intersects the hydrometer scale is the correct reading of the hydrometer. When the correct readings of the hydrometer and the thermometer have been determined, the true percent of proof shall be ascertained from Table 1. Another sample of the spirits should then be taken and be tested in the same manner so as to verify the proof originally ascertained. Hydrometer readings should be made to the nearest 0.05 degree and thermometer readings should be made to the nearest 0.1 degree, and instrument correction factors, if any, should be applied. It is necessary to interpolate in Table 1 for fractional hydrometer and thermometer readings.

*Example.* A hydrometer reads 192.85° at 72.10 °F. The correction factors for the hydrometer and the thermometer, respectively are minus0.03° and plus0.05°. The corrected reading, then, is 192.82° at 72.15 °F.

From Table 1:

| | | |
|---|---|---|
| 193.0° at 72.0 °F. | = | 190.2° |
| 192.0° at 72.0 °F. | = | 189.1° |
| Difference | = | 1.1° |
| 192.0° at 72.0 °F. | = | 189.1° |
| 192.0° at 73.0 °F. | = | 188.9° |
| Difference | = | 0.2° |

The hydrometer difference (1.1°) multiplied by the fractional degree of the hydrometer reading (0.82°)=0.902.

The temperature difference (0.2°) multiplied by the fractional degree of the temperature reading (0.15°)=0.03°.

Proof at 60° F.=189.1+0.902–0.03=189.972°=190.0°.

As shown, the final proof is rounded to the nearest tenth of a degree of proof. In such cases, if the hundredths decimal is less than five, it will be dropped; if it is five or over, a unit will be added.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37004, July 16, 1996]

### § 30.24 Specific gravity hydrometers.

(a) The specific gravity hydrometers furnished by proprietors to appropriate TTB officers shall conform to the standard specifications of the American Society for Testing and Materials (ASTM) for such instruments. Such specific gravity hydrometers shall be

of a precision grade, standardization temperature 60 °/60 °F., and provided in the following ranges and subdivisions:

| Range | Subdivision |
|---|---|
| 1.0000 to 1.0500 | 0.0005 |
| 1.0500 to 1.1000 | 0.0005 |
| 1.1000 to 1.1500 | 0.0005 |
| 1.1500 to 1.2000 | 0.0005 |
| 1.2000 to 1.2500 | 0.0005 |

No instrument shall be in error by more than 0.0005 specific gravity.

(b) A certificate of accuracy prepared by the instrument manufacturer for the instrument shall be furnished to the appropriate TTB officer.

(c) *Incorporation by reference.* The ''Standard Specification for ASTM Hydrometers,'' (E 100–72 (1978)), published in the ''1980 Annual Book of ASTM Standards'' (STP 25 1062 (1980)), is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on March 23, 1981. This publication may be inspected at the National Archives and Records Administration (NARA), and is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(Sec. 201. Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204); 80 Stat. 383, as amended (5 U.S.C. 552(a)))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37004, July 16, 1996; 69 FR 18803, Apr. 9, 2004]

### § 30.25 Use of precision specific gravity hydrometers.

The provisions of § 30.23 respecting the care, handling, and use of precision instruments shall be followed with respect to the care, handling, and use of precision grade specific gravity hydrometers. Specific gravity hydrometers shall be read to the nearest subdivision. Because of temperature density relationships and the selection of the standardization temperature of 60 °/60 °F., the specific gravity readings will be greater at temperatures below 60 degrees Fahrenheit and less at temperatures above 60 degress Fahrenheit. Hence, correction of the specific gravity readings will be made for temperature other than 60 degrees Fahrenheit. Such correction may be ascertained by dividing the specific gravity hydrometer reading by the applicable correction factor in Table 7.

*Example:* The specific gravity hydrometer reading is 1.1525, the thermometer reading is 68 degrees Fahrenheit, and the true proof of the spirits is 115 degrees. The correct specific gravity reading will be ascertained as follows:

(a) From Table 7, the correction factor for 115° proof at 68 °F. is 0.996.

(b) 1.1525 divided by 0.996=1.1571, the corrected specific gravity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

## Subpart D—Gauging Procedures

### § 30.31 Determination of proof.

(a) *General.* The proof of spirits shall be determined to the nearest tenth degree which shall be the proof used in determining the proof gallons.

(b) *Solids content not more than 600 milligrams.* Except as otherwise authorized by the appropriate TTB officer, the proof of spirits containing not more than 600 milligrams of solids per 100 milliliters of spirits shall be determined by the use of a hydrometer and thermometer in accordance with the provisions of § 30.23 except that if such spirits contain solids in excess of 400 milligrams but not in excess of 600 milligrams per 100 milliliters at gauge proof, there shall be added to the proof so determined the obscuration determined as prescribed in § 30.32.

(c) *Solids content over 600 milligrams.* If such spirits contain solids in excess of 600 milligrams per 100 milliliters at gauge proof, the proof shall be determined on the basis of true proof determined as follows:

(1) By the use of a hydrometer and a thermometer after the spirits have been distilled in a small laboratory still and restored to the original volume and temperature by the addition of pure water to the distillate; or

(2) By a recognized laboratory method which is equal or superior in accuracy to the distillation method.

(d) *Initial proof.* Except when the proof of spirits is used in making the guage prescribed in 27 CFR 19.383 or in making a gauge for determination of tax, the initial determination of proof made on the bonded premises of a distilled spirits plant for such spirits may be used whenever a subsequent gauge is required to be made at that same plant provided that no material has been added to change the proof of the spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985]

### § 30.32 Determination of proof obscuration.

(a) *General.* Proof obscuration of spirits containing more than 400 but not more than 600 milligrams of solids per 100 milliliters shall be determined by one of the following methods. The evaporation method may be used only for spirits in the range of 80–100 degrees at gauge proof.

(b) *Evaporation method.* Evaporate the water and alcohol from a carefully measured 25 milliliter sample of spirits, dry the residue at 100 degrees centigrade for 30 minutes and then weigh the residue precisely. Multiply the weight of the residue by 4 to determine the weight of solids in 100 milliliters. The resulting weight per 100 milliliters multiplied by 4 will give the obscuration. Experience has shown that 0.1 gram (100 milligrams) of solids per 100 milliliters of spirits in the range of 80–100 degrees proof will obscure the true proof by 0.4 of one degree of proof. For example, if the weight of solids remaining after evaporation of 25 milliliters 0.125 gram, the amount of solids present in 100 milliliters of the spirits is 0.50 gram (4 times 0.125). The obscuration is 4 times 0.50, which is two degrees of proof. This value added to the temperature corrected hydrometer reading will give the true proof.

(c) *Distillation method.* Determine the apparent proof and temperature of the sample of spirits and then distill a carefully measured sample in a small laboratory still, and collect a quantity of the distillate, 1 or 2 milliliters less than the original sample. The distillate is adjusted to the original temperature and restored to the original volume by addition of distilled water. The proof of the restored distillate is then determined by use of a precision hydrometer and thermometer in accordance with the provisions of § 13.23 to the nearest 0.1 degree of proof. The difference between the proof so determined and the apparent proof of the undistilled sample is the obscuration; or

(d) *Pycnometer method.* Determine the specific gravity of the undistilled sample, distill and restore the samples as provided in paragraph (c) of this section and determine the specific gravity of the restored distillate by means of a pycnometer. The specific gravities so obtained will be converted to degrees of proof by interpolation of Table 6 to the nearest 0.1 degree of proof. The difference in proof so obtained is the obscuration.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37004, July 16, 1996]

## DETERMINATION OF QUANTITY

### § 30.36 General requirements.

The quantity determination of distilled spirits that are withdrawn from bond in bulk upon tax determination or payment shall be by weight. The quantity of other distilled spirits or denatured spirits may be determined by weight or by volume. When the quantity of distilled spirits or denatured distilled spirits is determined by volume, such determination may be by meter as provided in 27 CFR Part 19, or when approved by the appropriate TTB officer, another method or device.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985]

## DETERMINATION OF QUANTITY BY WEIGHT

### § 30.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced

at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 30.31. However, if the spirits are to be reduced in proof, the spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 4. However, in the case of spirits which contain solids in excess of 600 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 30.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 600 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 30.23, to determine the apparent proof of the spirits (if specific gravity at the temperature of the spirits is not more than 1.0) and reference to Table 4 for the wine gallons per pound, or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 30.25, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60 degrees Fahrenheit) into the factor 0.120074 (the wine gallons per pound for water at 60 degrees Fahrenheit). When withdrawing a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

## § 30.42 Denatured spirits.

The quantity, in gallons, of any lot or package of specially denatured spirits may be determined by weighing it and then dividing its weight by the weight per gallon of the formula concerned, as given in the appropriate tables in subpart H of 27 CFR Part 21. In the case of completely denatured spirits, the gallonage of any lot or package may be ascertained by determining its weight and apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit) and then multiplying the weight of the wine gallons per pound factor shown in Table 4 for the (apparent) proof.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

## § 30.43 Packaged spirits.

When the quantity of spirits (including denatured spirits when gauged by weight) in packages, such as barrels, drums, and similar portable containers, is to be determined by gauge of the individual packages, such quantity shall, except as provided in paragraph (b) of this section, be determined by weighing each package on an accurate weighing beam or platform scale having a beam or dial showing weight in pounds and half pounds, where packages having a capacity in excess of 10 wine gallons are to be gauged, or in pounds and ounces, or pounds and hundredths of a pound, where packages designed to hold 10 wine gallons or less are to be gauged. In either case the tare must be determined and subtracted from the gross weight to obtain the net weight. From the proof and weight ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 2, 3, or 4. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the proof gallons shall be determined as prescribed for such spirits in § 30.41. Notwithstanding the provisions of this section or of § 30.44, (a) gross weights and tares of packages being filled need not be taken in any case where the gauge of the spirits is not derived from such weights under the gauging procedure being utilized, and (b) meters, other devices, or other methods may be used for determining the quantity of spirits

in individual packages, when such meter is used as provided in 27 CFR Part 19, or, when such other device or method has been approved by the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37004, July 16, 1996]

### § 30.44 Weighing containers.

(a) *Weighing containers of more than 10 wine gallons.* The weight of containers having a capacity in excess of 10 wine gallons shall be determined and recorded in pounds and half pounds.

(b) *Weighing containers of 10 wine gallons or less.* The weight for containers of a capacity of 10 wine gallons or less shall be determined in pounds and ounces, or pounds and hundredths of a pound, and shall be recorded in pounds and hundredths of a pound. The equivalent pounds and hundredths of pounds and the corresponding wine gallons and proof gallons shall be expressed as shown in the following table for the respective weights in pounds and ounces and proofs shown therein or, as applicable, computed in accordance with rules in this section.

WEIGHT OF CONTENTS

| Size of container, wine gallons | Pounds | Ozs. | Weight in pounds and hundredths of a pound | Contents in wine gallons | Proof gallons |
|---|---|---|---|---|---|
| 190 proof spirits: | | | | | |
| 1 | 6 | 13 | 6.81 | 1 | 1.9 |
| 2 | 13 | 10 | 13.63 | 2 | 3.8 |
| 5 | 34 | 00 | 34.00 | 5 | 9.5 |
| 10 | 68 | 00 | 68.00 | 10 | 19.0 |
| 192 proof spirits: | | | | | |
| 1 | 6 | 13 | 6.81 | 1 | 1.9 |
| 2 | 13 | 9 | 13.56 | 2 | 3.8 |
| 5 | 33 | 13 | 33.81 | 5 | 9.6 |
| 10 | 67 | 10 | 67.63 | 10 | 19.2 |
| 200 proof spirits: | | | | | |
| 1 | 6 | 10 | 6.63 | 1 | 2.0 |
| 2 | 13 | 4 | 13.25 | 2 | 4.0 |
| 5 | 33 | 1 | 33.06 | 5 | 10.0 |
| 10 | 66 | 2 | 66.12 | 10 | 20.0 |

(c) *Containers of other proofs or sizes.* Where containers of proofs or sizes not shown above are to be filled, the following rule may be used for ascertaining the weight of the spirits to be placed in the container: Divide the number of gallons representing the quantity of spirits to be placed in the container by the fractional part of a gallon equivalent to 1 pound, to obtain the weight of the spirits in pounds and fractions of a pound to two decimal places. Reduce the decimal fraction of a pound to ounces by multiplying by 16, calling any fraction of an ounce a whole ounce. The pounds and ounces thus obtained will determine the point to which the spirits must be weighed to produce the results desired. If the weight must be marked on the container in pounds and decimal fractions of a pound, it will be necessary to convert the ounces to hundredths of a pound. The fraction of a gallon equivalent to 1 pound at any given proof shall be ascertained by reference to Table 4. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the fraction of a gallon equivalent to 1 pound shall be determined as prescribed for such spirits in § 30.41.

*Example.* It is desired to fill a 1-gallon can with precisely 1 wine gallon of 194 proof spirits:
1.00 divided by 0.14866=6.73 pounds.
0.73 multiplied by 16=11.68 ounces, rounded to 12 ounces.
Weight of spirits—6 pounds, 12 ounces.
Weight, if required, to be marked on can-6.75 pounds.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

### § 30.45 Withdrawal gauge for packages.

When wooden packages are to be individually gauged for withdrawal, actual tare of the packages shall be determined. The actual tare of a package shall be determined by weighing it after its contents (including rinse water, if any) have been temporarily removed to a separate container or vessel. Where the contents of packages have been temporarily removed for determination of tare, the proof, if any rinse water is added to the spirits, shall be determined after a thorough mixing of the rinse water and the spirits and before return of the spirits to the rinsed packages, and the gross weight shall be determined after the spirits and any added rinse water have been returned to the packages. In the

case of metal packages the tare established at the time of filling may be used unless it appears to be incorrect. From the proofs and the net weights of the packages, the wine gallons (if desired) and the proof gallons of spirits shall be determined by the use of Table 2. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the wine gallon and proof gallon contents shall be determined as prescribed for such spirits in § 30.41. If either the weight or the proof is beyond the limitations of table 2, either table 3 or table 4 may be used.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

DETERMINATION OF QUANTITY BY VOLUME

### § 30.51 Procedures for measurement of bulk spirits.

Where the quantity of spirits (including denatured spirits) in bulk is to be determined by volume as authorized by this chapter, the measurement shall be made in tanks, by meters as provided in 27 CFR part 19, or by other devices or methods authorized by the appropriate TTB officer, or as otherwise provided in this chapter, or such measurement may be made in tank cars or tank trucks if calibration charts for such conveyances are provided and such charts have been accurately prepared, and certified as accurate, by engineers or other persons qualified to calibrate such conveyances. Volumetric measurements in tanks shall be made only in accurately calibrated tanks equipped with suitable measuring devices, whereby the actual contents can be correctly ascertained. If the temperature of spirits (including denatured spirits) is other than the standard of 60 degrees Fahrenheit, gallonage determined by volumetric measurements shall be corrected to the standard temperature by means of table 7. In the case of denatured spirits, the temperature-correction factor for the proof of the spirits used in denaturation will give sufficiently accurate results, except that the temperature-correction factor used for specially denatured spirits, Formula No. 18, should be that given in table 7 for 100 proof spirits. When the quantity of spirits, in wine gallons, has been determined by volumetric measurement, the number of proof gallons shall be obtained by multiplying the wine gallons by the proof of the spirits as determined under § 30.31.

*Example.* Gauge glass reading inches—88.
Wine gallons per inch—48.96.
Temperature °F—72.
Proof of spirits—86.8.
Temperature correction factor (Table 7)—0.995.
48.96 W.G.×88=4308.48 wine gallons.
4308.48 W.G.×0.995=4286.94 wine gallons.
4286.94 W.G.×0.868=3721.06392=3721.1 proof gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF–198, 50 FR 8535, Mar. 1, 1985, as amended by T.D. ATF–381, 61 FR 37004, July 16, 1996]

### § 30.52 Procedure for measurement of cased spirits.

Where the quantity of spirits in a case is to be determined by volume, such determination shall be made by ascertaining the contents of one bottle in the case and multiplying that figure by the number of bottles in the case. For cases containing bottles filled according to the metric system of measure, the quantity determined shall be converted to wine gallons, as provided in § 19.722 of this chapter. The wine gallons of spirits thus determined for one case may then be multiplied by the number of cases containing spirits at the same proof when determining the quantity of spirits for more than one case. The proof gallons of spirits in cases shall be determined by multiplying the wine gallons by the proof (divided by 100).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

## Subpart E—Prescribed Tables

NOTE. The tables referred to in this subpart appear in their entirety in the ''Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight'' which is incorporated by reference in this part (see § 30.1).

### § 30.61 Table 1, showing the true percent of proof of spirit for any indication of the hydrometer at temperatures between zero and 100 degrees Fahrenheit.

This table shows the true percent of proof of distilled spirits for indications of the hydrometer likely to occur in practice at temperatures between zero and 100 degrees Fahrenheit and shall be used in determining the proof of spirits. The left-hand column contains the reading of the hydrometer and on the same horizontal line, in the body of the table, in the ''Temperature'' column corresponding to the reading of the thermometer is the corrected reading or ''true percent of proof.'' The table is computed for tenths of a percent.

*Example.*

| | |
|---|---|
| Temperature, °F | 75 |
| Hydrometer reading | 193 |
| True percent of proof | 189.5 |

Where fractional readings are ascertained, the proper interpolations will be made (see § 30.23). If the distilled spirits contain dissolved solids, temperature-correction of the hydrometer reading by the use of this table would result in apparent proof rather than true proof.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

### § 30.62 Table 2, showing wine gallons and proof gallons by weight.

The wine and proof gallon content by weight and proof of packages of distilled spirits usually found in actual practice will be ascertained from this table. The left-hand column contains the weights. The true percent of proof is shown on the heading of each page in a range from 90 degrees to 200 degrees. Under the true percent of proof and on the same horizontal line with the weight will be found the wine gallons (at 60 degrees Fahrenheit) and the proof gallons respectively. Where either the weight or the proof of a quantity of spirits is beyond the limitations of this table, the number of proof gallons may be ascertained by reference to Table 3. This table may also be used to ascertain the wine gallons (at 60 degrees Fahrenheit) and proof gallons of spirituous liquor containing dissolved solids where the weight, apparent proof (hydrometer indication corrected to 60 degrees Fahrenheit), and obscuration factor have been determined.

*Example.* 334 lbs. of distilled spirits.
Apparent proof—96.0°.
Obscuration—0.8°.
True Proof 96.0°+0.8°=96.8°.
334 lbs. at 96.0° apparent proof=42.8 wine gallons.
42.8 wine gallons×96.8°=41.4 proof gallons.

In addition this table may be used to obtain the wine gallons, at the prevailing temperature, of most liquids within the range of the table, from the weight of the liquid and the uncorrected reading of the hydrometer stem. An application of this would be in determining the capacity of a package.

*Example.* It is desired to determine, or to check the rated capacity of a package having a net weight of 395 pounds when completely filled with spirits having an uncorrected hydrometer reading of 113.0°. The full capacity of the package, 51.5 wine gallons, would be found by referring to the table at 395 pounds and 113° proof (hydrometer reading).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

### § 30.63 Table 3, for determining the number of proof gallons from the weight and proof of spirituous liquor.

When the weight or proof of a quantity of distilled spirits is not found in Table 2, the proof gallons may be ascertained from Table 3. The wine gallons (at 60 degrees Fahrenheit) may be ascertained by dividing the proof gallons by the proof.

*Example.* A tank car of spirits of 190 degrees of proof weighed 60,378 pounds net. We find—

| | Proof gallons |
|---|---|
| 60,000 pounds equal to | 16,778.4 |
| 300 pounds equal to | 83.9 |
| 70 pounds equal to | 19.6 |
| 8 pounds equal to | 2.2 |
| Total | 16,884.1 |

That is, the total weight of 60,378 pounds of spirits at 190 proof is equal to 16,884.1 proof gallons. The equivalent gallonage for 70 pounds is found from the column 700 pounds by moving the decimal point one place to the left; that for 8 pounds from the column 800 pounds by moving the decimal point two places to the left.

*Example.* A package of spirits at 86 proof weighed 321½ pounds net. We find—

| | Proof gallons |
|---|---|
| 300 pounds equal to | 32.7 |

| | Proof gallons |
|---|---|
| 20 pounds equal to | 2.2 |
| 1 pound equal to | .1 |
| ½ pound equal to | .1 |
| Total | 35.1 |

That is, 321½ pounds of spirits at 86 proof is equal to 35.1 proof gallons. The equivalent gallonage for 20 pounds is found from the column 200 pounds by moving the decimal point one place to the left; that for 1 pound from the column 100 pounds by moving the decimal point two places to the left; that for the ½ pound from the column 500 pounds by moving the decimal point three places to the left.

Fractional gallons beyond the first decimal ascertained through use of this table will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more. The wine gallons (at 60 degrees Fahrenheit) may be determined by dividing the proof gallons by the proof. For example: 35.1 divided by 0.86 equals 40.8 wine gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C.5204))

### § 30.64 Table 4, showing the fractional part of a gallon per pound at each percent and each tenth percent of proof of spirituous liquor.

This table provides a method for use in ascertaining the wine gallon (at 60 degrees Fahrenheit) and/or proof gallon contents of containers of spirits by multiplying the net weight of the spirits by the fractional part of a gallon per pound shown in the table for spirits of the same proof. Fractional gallons beyond the first decimal will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more.

*Example.* It is desired to ascertain the wine gallons and proof gallons of a tank of 190 proof spirits weighing 81,000 pounds.

81,000×0.14718=11,921.58=11,921.6 wine gallons.
81,000×0.27964=22,650.84=22,650.8 proof gallons.

This table may also be used for ascertaining the quantity of water required to reduce to a given proof. To do this, divide the proof gallons of spirits to be reduced by the fractional part of a proof gallon per pound of spirits at the proof to which the spirits are to be reduced, and subtract from the quotient the net weight of the spirits before reduction. The remainder will be the pounds of water needed to reduce the spirits to the desired proof.

*Example.* It is desired to ascertain the quantity of water needed to reduce 1,000 pounds of 200 proof spirits, 302.58 proof gallons, to 190 proof:

302.58 divided by 0.27964 equals 1,082.03 pounds, weight of spirits after reduction.
1.082.03 minus 1,000 equals 82.03 pounds, weight of water required to reduce to desired proof.

The slight variation between this table and Tables 2, 3, and 5 on some calculations is due to the dropping or adding of fractions beyond the first decimal in those tables. This table may also be used to determine the wine gallons (at 60 degrees Fahrenheit) of distilled spirits containing dissolved solids from the total weight of the liquid and its apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit). The proof gallons may then be found by multiplying the wine gallons by the true proof.

*Example.* 5,350 pounds of blended whisky containing added solids

Temperature °F.....75.0°
Hydrometer reading.....92.0°
Apparent proof.....85.5°
Obscuration.....0.5°
True proof.....86.0°

5,350.0 lbs.×0.12676 (W.G. per pound factor for apparent proof of 85.5°)=678.2 wine gallons
678.2 W.G.×0.86=583.3 proof gallons

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended 1362, as amended (26 U.S.C. 5204, 5211))

### § 30.65 Table 5, showing the weight per wine gallon (at 60 degrees Fahrenheit) and proof gallon at each percent of proof of spirituous liquor.

This table may be used to ascertain the weight of any given number of wine gallons (at 60 degrees Fahrenheit) or proof gallons of spirits by multiplying the pounds per gallon by the given number of gallons of the spirits. The table should be especially useful where it is desired to weigh a precise quantity of spirits.

*Example.* It is desired to ascertain the weight of 100 wine gallons of 190 proof spirits:

6.79434×100 equals 679.43 pounds, net weight of 100 wine gallons of 190 proofs spirits.

*Example.* It is desired to ascertain the weight of 100 proof gallons of 190 proof spirits.

3.57597×100 equals 357.60 pounds, net weight of 100 proof gallons of 190 proof spirits.

The slight variation between this table and Tables 2 and 3 on some calculations is due to dropping or adding of fractions beyond the first decimal on those tables. This table also shows the weight per wine gallon (at the prevailing temperature) corresponding to each uncorrected reading of a proof hydrometer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

### § 30.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.

This table provides an alternate method for use in ascertaining the quantity of water needed to reduce the strength of distilled spirits by a definite amount. To do this, divide the alcohol in the given strength by the alcohol in the required strength, multiply the quotient by the water in the required strength, and subtract the water in the given strength from the product. The remainder is the number of gallons of water to be added to 100 gallons of spirits of the given strength to produce a spirit of a required strength.

*Example.* It is desired to reduce spirits of 191 proof to 188 proof. We find that 191 proof spirits contains 95.5 parts alcohol and 5.59 parts water, and 188 proof spirits contains 94.0 parts alcohol and 7.36 parts water.

95.5 (the strength of 100 wine gallons of spirits at 191 proof) divided by 94.0 (the strength of 100 wine gallons of spirits at 188 proof) equals 1.01.

7.36 (the water in 188 proof) multiplied by 1.01 equals 7.43.

7.43 less 5.59 (the water in 191 proof spirits) equal 1.84 gallons of water to be added to each 100 wine gallons of 191 proof spirits to be reduced.

This rule is applicable for reducing to any proof; but when it is desired to reduce to 100 proof, it is sufficient to point off two decimals in the given proof, multiply by 53.73, and deduct the water in the given strength. Thus, to reduce 112 proof spirits to 100 proof:

1.12×53.73–47.75 equals 12.42 gallons of water to be added to each 100 wine gallons of spirits to be reduced.

This table may also be used to obtain the proof gallonage of spirituous liquor according to weight and percent of proof.

*Example.* It is desired to determine the number of gallons in 400 pounds of spirits of 141 percent of proof. Multiply the weight of one gallon of water in air by the specific gravity in air of the spirits—8.32823 by 0.88862—the product (7.40063) divided into 400 gives 54.049 wine gallons, which rounded to the nearest hundredth is 54.05 and multiplied by 1.41 gives 76.2 proof gallons. In rounding off where the decimal is less than five, it will be dropped; if it is five or over a unit will be added.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

### § 30.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit.

This table is prescribed for use in correcting spirits to volume at 60 degrees Fahrenheit. To do this, multiply the wine gallons of spirits which it is desired to correct to volume at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The product will be the corrected gallonage at 60 degrees Fahrenheit. This table is also prescribed for use in ascertaining the true capacity of containers where the wine gallon contents at 60 degrees Fahrenheit have been determined by weight in accordance with Tables 2, 3, 4, or 5. This is accomplished by dividing the wine gallons at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The quotient will be the true capacity of the container.

*Example.* It is desired to ascertain the volume at 60 degrees Fahrenheit of 1,000 wine gallons of 190 proof spirits at 76 degrees Fahrenheit:

1,000×0.991 equals 991 wine gallons, the corrected gallonage at 60 degrees Fahrenheit.

*Example.* It is desired to ascertain the capacity of a container of 190 proof spirits at 76 degrees Fahrenheit, shown by Table 2 to contain 55.1 wine gallons at 60 degrees Fahrenheit:

55.1 divided by 0.991 equals 55.6 wine gallons, the true capacity of the container when

filled with spirits of 60 degrees temperature.

It will be noted the table is prepared in multiples of 5 percent of proof and 2 degrees temperature. Where the spirits to be corrected are of an odd temperature, one-half of the difference, if any, between the factors for the next higher and lower temperature, should be added to the factor for the next higher temperature.

*Example.* It is desired to correct spirits of 180 proof at 51 degrees temperature:

1.006 (50°) − 1.005 (52°)=0.001 divided by 2=0.0005
0.0005+1.005=1.0055 correction factor at 51 °F.

*Example.* It is desired to correct spirits of 180 proof at 53 degrees temperature:

1.005 (52°) − 1.003 (54°)=0.002 divided by 2=0.001
0.001+1.003=1.004 correction factor at 53 °F.

Where the percent of proof is other than a multiple of five, the difference, if any, between the factors for the next higher and lower proofs should be divided by five and multiplied by the degrees of proof beyond the next lower proof, and the fractional product so obtained should be added to the factor for the next lower proof (if the temperature is above 60 degrees Fahrenheit, the fractional product so obtained must be subtracted from the factor for next lower proof), or if it is also necessary to correct the factor because of odd temperature, to the temperature corrected factor for the next lower proof.

*Example.* It is desired to ascertain the correction factor for spirits of 112 proof at 47 degrees temperature:

1.006 (46°) − 1.005 (48°)=0.001 divided by 2=0.0005
0.0005+1.005=1.0055 corrected factor at 47 °F.
1.007 (115 proof) − 1.006 (110 proof)=0.001
0.001 divided by 5=0.0002 (for each percent of proof)×2 (for 112 proof)=0.0001
0.0004=1.0055 (corrected factor at 47 °F.)=1.0059 correction factor to be used for 112 proof at 47 °F

*Example.* It is desired to ascertain the correction factor for spirits of 97 proof at 93 degrees temperature:

0.986 (92°) − 0.985 (94°)=0.001 divided by 2=0.0005
0.0005+0.985=0.9855 corrected factor at 93 °F.
0.986 (95 proof) − 0.985 (100 proof)=0.001
0.001 divided by 5=0.0002 (for each percent of proof)×2 (for 97 proof)=0.0004
0.9855 (corrected factor at 93 °F.)=0.0005=0.9851 correction factor to be used for 97 proof at 93 °F.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

## Subpart F—Optional Gauging Procedures

### § 30.71 Optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milliliters.

The proof of spirits shall be determined to the nearest tenth degree which shall be the proof used in determining the proof gallons and all fractional parts thereof to the nearest tenth proof gallon. The proof of spirits containing solids of 400 milligrams or less per 100 milliliters shall be determined by the use of a hydrometer and a thermometer in accordance with the provisions of § 30.23. However, notwithstanding the provisions of § 30.31, the proprietor may, at his option, add to the proof so determined the obscuration determined as prescribed in § 30.32.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5211))

### § 30.72 Recording obscuration by proprietors using the optional method for determination of proof.

Any proprietor using the optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milligrams as provided in § 30.71 shall record the obscuration so determined on the record of gauge required by 27 CFR part 19.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5211))

# PART 31—ALCOHOL BEVERAGE DEALERS

## Subpart A—Scope of Regulations

Sec.
31.1 Applicability.
31.2 Territorial extent.
31.3 Basic permit requirements.
31.4 Relation to State and municipal law.

## Subpart B—Definitions

31.11 Meaning of terms.

## Subpart C—Special (Occupational) Taxes

31.21 Basis of tax.
31.22 Selling or offering for sale.

DEALERS CLASSIFIED

31.23 Retail dealer in liquors.
31.24 Wholesale dealer in liquors.

31.25 Retail dealer in beer.
31.26 Wholesale dealer in beer.
31.27 Limited retail dealer; persons eligible.
31.28 Sales of 20 wine gallons (75.7 liters) or more.

SPECIAL TAX LIABILITY OF CERTAIN ORGANIZATIONS, AGENCIES AND PERSONS

31.29 Clubs or similar organizations.
31.30 Restaurants serving liquors with meals.
31.31 States, political subdivisions thereof, or the District of Columbia.
31.32 Sales of denatured spirits or articles.
31.33 Sales of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer.
31.34 Sales by agencies and instrumentalities of the United States.
31.35 Warehouse receipts covering spirits.

Subpart D—Administrative Provisions

31.41 Forms prescribed.
31.42 Right of entry and examination.
31.43 Delegations of the Administrator.

Subpart E—Places Subject to Special Tax

31.51 Special tax liability incurred at each place of business.
31.52 Place of sale.
31.53 Place of offering for sale.
31.54 Places of storage; deliveries therefrom.
31.55 Caterers.
31.56 Peddling.

SALES IN TWO OR MORE AREAS ON THE SAME PREMISES

31.57 General.
31.58 Hotels.
31.59 Ball park, race track, etc.; sales throughout the premises.

Subpart F—Each Business Taxable

31.71 Different businesses of same ownership and location.
31.72 Dealer in beer and dealer in liquors at the same location.

Subpart G—Partnerships

31.91 Liability of partners.
31.92 Addition of partners or incorporation of partnership.
31.93 Formation of a partnership by two dealers.
31.94 Withdrawal of one or more partners.

Subpart H—Payment of Special Tax

31.101 Special tax rates.
31.102 Date special tax is due.
31.103 Computation of special tax.

FILING RETURN AND PAYMENT OF SPECIAL TAX

31.104 Time for filing return.
31.104a Place for filing return.
31.105 Method of payment.

SPECIAL TAX RETURN, FORM 5630.5

31.106 Special tax returns.
31.106a Employer identification number.
31.107 Execution of Form 5630.5.
31.109 Penalty for failure to file return or to pay tax.
31.110 Interest on unpaid tax.

DELINQUENT RETURNS

31.111 Waiver of penalties.

Subpart I—Special Tax Stamps

31.121 Issuance of stamps.
31.121a Distribution of stamps for multiple locations.
31.122 Receipt in lieu of stamp prohibited.
31.123 Stamps covering business in violation of State law.
31.124 Passenger trains, aircraft, and vessels.
31.125 Carriers not engaged in passenger service.
31.126 Supply boats or vessels.
31.127 Retail dealers ''At Large.''

STAMP TO BE AVAILABLE FOR EXAMINATION

31.131 General.
31.132 Lost or destroyed.
31.133 Seizure by State authorities.

CORRECTION OF ERRORS ON SPECIAL TAX STAMPS

31.134 Errors disclosed by taxpayers.
31.135 Errors discovered on inspection.

STAMPS FOR INCORRECT PERIOD OR INCORRECT LIABILITY

31.136 General.
31.137 Credit by an ATF officer.
31.138 Receipt for taxes.
31.139 Credit for incorrect stamp.

Subpart J—Change of Location

31.151 Amended return, Form 5630.5; endorsement on stamp.
31.152 Failure to register change of address within 30 days.
31.153 Certificate in lieu of lost or destroyed special tax stamp.

Subpart K—Change in Proprietorship or Control

31.161 Sale of business.
31.162 Incorporation of business.
31.163 New corporation.
31.164 Stockholder continuing business of corporation.

31.165 Change in trade name or style of business.
31.166 Change of name or increase in capital stock of a corporation.
31.167 Change in ownership of capital stock.
31.168 Change in membership of unincorporated club.
31.169 Change of control, persons having right of succession.
31.170 Failure to perfect right of succession within 30 days.

## Subpart L—Exemptions and Exceptions

PERSONS EXEMPT FROM LIQUOR AND BEER DEALER SPECIAL TAXES

31.181 Single sale of liquors or warehouse receipts.
31.182 Proprietors of distilled spirits plants selling certain distilled spirits or wines.
31.183 Proprietors of bonded wine cellars selling certain wines or wine spirits.
31.183a Proprietors of taxpaid wine bottling houses selling certain wines.
31.184 Proprietors of breweries selling beer stored at their breweries.
31.185 Wholesale dealers in liquors consummating sales of wines or beer at premises of other dealers.
31.186 Wholesale dealers in beer consummating sales at premises of other dealers.
31.187 Hospitals.
31.187a Limited retail dealers.
31.187b Coordination of taxes under 26 U.S.C. 5111 and 5121.

PERSONS WHO ARE NOT DEALERS IN LIQUORS OR BEER

31.188 Persons making casual sales.
31.189 Agents, auctioneers, brokers, etc., acting on behalf of others.
31.190 Apothecaries or druggists selling medicines and tinctures.
31.191 Persons selling products unfit for beverage use.
31.192 Retail dealer selling in liquidation his entire stock.
31.193 Persons returning liquors for credit, refund, or exchange.

## Subpart M—Refund of Special Taxes

31.201 Claims.
31.202 Time limit on filing of claim.
31.203 Discontinuance of business.

## Subpart N—Restrictions Relating to Purchases of Distilled Spirits

31.211 Unlawful purchases of distilled spirits.

## Subpart O—Prescribed Records and Reports, and Posting of Signs

WHOLESALE DEALERS' RECORDS AND REPORTS

31.221 General requirements as to distilled spirits.
31.222 Requirements as to wines and beer.
31.223 Records to be kept by States, political subdivisions thereof, or the District of Columbia.
31.224 Records to be kept by proprietors of distilled spirits plants.
31.225 Records of receipt.
31.226 Records of disposition.
31.227 Cancelled or corrected records.
31.228 Previously prescribed or approved records of receipt and disposition.
31.229 Variations in format, or preparation, of records.
31.230 Monthly summary report.
31.231 Conversion between metric and U.S. units.
31.232 Discontinuance of business.
31.233 Requirements when a wholesale dealer in liquors maintains a retail department.

RETAIL DEALER'S RECORDS

31.234 Requirements for retail dealers.

FILES OF RECORDS AND REPORTS

31.235 Filing.
31.236 Place of filing.

PERIOD OF RETENTION

31.237 Retention of records and files.
31.238 Photographic copies of records.
31.239–31.241 [Reserved]

## Subpart P [Reserved]

## Subpart Q—Reuse and Possession of Used Liquor Bottles

31.261 Refilling of liquor bottles.
31.262 Possession of refilled liquor bottles.
31.263 Possession of used liquor bottles.
31.264 Mixed cocktails.

## Subpart R—Packaging of Alcohol for Industrial Uses

31.271 Requirements and procedure.
31.272 Labeling.

## Subpart S—Distilled Spirits for Export With Benefit of Drawback

31.281 General.
31.283 Records.

## Subpart T—Miscellaneous

31.291 Destruction of marks and brands on wine containers.
31.292 Wine bottling.

31.293 Mixing cocktails in advance of sale.

AUTHORITY: 26 U.S.C. 5001, 5002, 5111–5114, 5116, 5117, 5121–5124, 5142, 5143, 5145, 5146, 5148, 5206, 5207, 5301, 5352, 5555, 5613, 5681, 5691, 6001, 6011, 6061, 6065, 6071, 6091, 6109, 6151, 6311, 6314, 6402, 6511, 6601, 6621, 6651, 6657, 7011, 7805.

SOURCE: 25 FR 6270, July 2, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005.

EDITORIAL NOTE: Nomenclature changes to part 31 appear by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005.

## Subpart A—Scope of Regulations

### §31.1 Applicability.

This part contains the substantive and procedural requirements relating to the special taxes imposed on wholesale and retail dealers in liquors and in beer, requirements and procedures pertaining to operations of such dealers prescribed under Title 26 of the United States Code, as amended, and provisions relating to entry of premises and inspection of records by TTB officers.

[T.D. ATF–271, 53 FR 17552, May 17, 1988, as amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### §31.2 Territorial extent.

The provisions of this part shall be applicable in the several States of the United States and the District of Columbia.

### §31.3 Basic permit requirements.

Every person, except an agency of a State or political subdivision thereof, who intends to engage in the business of selling distilled spirits, wines, or beer to other dealers is required by regulations in Part 1 of this chapter to obtain a basic permit authorizing him to engage in such business.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55843, Sept. 28, 1979. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### §31.4 Relation to State and municipal law.

The payment of any tax imposed by 26 U.S.C. Chapter 51, for carrying on any trade or business specified in §31.1 shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

(72 Stat. 1348; 26 U.S.C. 5145)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55843, Sept. 28, 1979. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## Subpart B—Definitions

### §31.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.31, Delegation of the Administrator's Authorities in 27 CFR Part 31, Alcohol Beverage Dealers.

*Beer.* Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

*Bonded wine cellar.* An establishment qualified under this chapter for the production, blending, cellar treatment,

storage, bottling, and packaging or repackaging of untaxpaid wine.

*Brewery.* An establishment qualified under this chapter for the production of beer.

*CFR.* The Code of Federal Regulations.

*Dealer.* Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

*Denatured spirits or denatured alcohol.* Spirits to which denaturants have been added as prescribed under this chapter.

*Director of the service center.* A director of an internal revenue service center.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced.

*Distilled spirits plant.* An establishment qualified under Part 19 of this chapter for the production, storage or processing of distilled spirits.

*District director.* A district director of internal revenue.

*Fiscal year.* The period from October 1 of one calendar year through September 30 of the following year.

*Gallon or wine gallon.* A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue.

*Liquors.* Distilled spirits, wines, or beer.

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as ''ml''.

*Person.* An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

*Place, or place of business.* The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

*Reclaim.* To grind up a liquor bottle or container and use the ground up material to make products other than liquor bottles or containers.

*Recycle.* To grind up a liquor bottle or container and use the ground up material to make new liquor bottles or containers.

*Sale at retail or retail sale.* Sale of liquors to a person other than a dealer.

*Sale at wholesale or wholesale sale.* Sale of liquors to a dealer.

*Special tax.* The occupational tax imposed on a dealer in liquors or a dealer in beer.

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

*U.S.C.* The United States Code.

*Wine.* When used without qualification, the term includes every kind (class and type) of product produced on bonded wine premises from grapes, other fruit (including berries), or other suitable agricultural products and containing not more than 24 percent of alcohol by volume. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine. A wine product containing less than one-half of one percent alcohol by volume is not taxable as wine when removed from the bonded wine premises.

(26 U.S.C. 7805 (68A Stat. 917, as amended) 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF–48, 43 FR 13541, Mar. 31, 1978, as amended by T.D. ATF–50, 43 FR 37180, Aug. 22, 1978; 44 FR 55843, Sept. 28, 1979; T.D. ATF–62, 44 FR 71693, Dec. 11, 1979; T.D. ATF–114, 47 FR 43949, Oct. 5, 1982; T.D. ATF–344, 58 FR 40355, July 28, 1993. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–44, 71 FR 16947, Apr. 4, 2006]

## Subpart C—Special (Occupational) Taxes

### § 31.21 Basis of tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section,

special taxes are imposed on persons engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage or any alcoholic liquors sold for use as a beverage. The classes of liquor dealer business on which special occupational tax is imposed and the conditions under which such tax is incurred are specified in §§31.23 through 31.26. No person shall engage in any business on which the special tax is imposed until he has filed a special tax return as provided in §31.26 of this part and paid the special tax for such business.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, liquor dealers must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–271, 53 FR 17552, May 17, 1988. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

### §31.22 Selling or offering for sale.

Whether the activities of any person constitute engaging in the business of selling or offering for sale is to be determined by the facts in each case, but any course of selling or offering for sale, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

DEALERS CLASSIFIED

### §31.23 Retail dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Except during the suspension period described in §31.21(b), every retail dealer in liquors shall pay special tax at the rate specified in §31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period described in §31.21(b) when no tax is due, the dealer must register by filing the special tax return, Form 5630.5.

(b) *Persons not deemed to be retail dealers in liquors.* The following persons are not deemed to be retail dealers in liquors within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in §31.21(b)) as such dealer:

(1) A retail dealer in beer as defined in §31.25,

(2) A limited retail dealer as specified in §31.27, or

(3) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in §31.188 through §31.190 or §31.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax (and from registration during the suspension period described in §31.21(b)) as retail dealers in liquors:

(1) A wholesale dealer in liquors selling or offering for sale distilled spirits, wines, or beer, whether to dealers or persons other than dealers, at any place where such wholesale dealer in liquors is required to pay special tax (or to register during the suspension period described in §31.21(b)) as such dealer.

(2) A wholesale dealer in beer selling or offering for sale beer only, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax (or to register during the suspension period described in §31.21(b)) as such dealer, or

(3) A person who is exempt from special tax under the provisions of §§31.181–31.184, 31.187, or 31.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

[T.D. TTB–36, 70 FR 62247, Oct. 31, 2005]

### §31.24 Wholesale dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to another dealer is, except as

provided in paragraph (b) of this section, a wholesale dealer in liquors. Except during the suspension period described in § 31.21(b), every wholesale dealer in liquors is required to pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with § 31.21(b).

(b) *Persons not deemed to be wholesale dealers in liquors.* The following persons are not deemed to be wholesale dealers in liquors within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A wholesale dealer in beer as defined in § 31.26,

(2) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in §§ 31.188 through 31.190 or § 31.192, or

(3) A person returning liquors for credit, refund, or exchange as provided in § 31.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as wholesale dealers in liquors:

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year,

(ii) A retail dealer in beer who, having paid the special tax (or having registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year, consummates sales at his place of business of beer to a limited retail dealer, or

(iii) A person who is exempt from such tax under the provisions of §§ 31.181 through 31.184.

(2) A wholesale dealer in liquors who has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer at the place or places from which he conducts his selling operations is exempt from additional special tax (or from additional registration during the suspension period described in § 31.21(b)) on account of his sales of beer or wines to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

[T.D. TTB–36, 70 FR 62248, Oct. 31, 2005]

### § 31.25 Retail dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in beer. Except during the suspension period described in § 31.21(b), every retail dealer in beer shall pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with § 31.21(b).

(b) *Persons not deemed to be retail dealers in beer.* The following persons are not deemed to be retail dealers in beer within the meaning of 26 U.S.C. chapter 51, and are not required to pay a special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A limited retail dealer as specified in § 31.27, or

(2) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in § 31.188 through § 31.189 or § 31.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as retail dealers in beer:

(1) A wholesale dealer in beer selling or offering for sale beer, but not distilled spirits or wines, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax (or to register during the suspension

period described in §31.21(b)) as such dealer.

(2) A person who is exempt from special tax under the provisions of §§31.181, 31.184, 31,187, or 31.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

[T.D. TTB–36, 70 FR 62248, Oct. 31, 2005]

### §31.26 Wholesale dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in beer. Except during the suspension period described in §31.21(b), every wholesale dealer in beer is required to pay special tax at the rate specified in §31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with §31.21(b).

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons are not deemed to be wholesale dealers in beer within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in §31.21(b)) as such dealer:

(1) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in §31.188 through §31.189 or §31.192, or

(2) A person returning beer for credit, refund or exchange as provided in §31.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax (and from registration during the suspension period described in §31.21(b)) as wholesale dealers in beer:

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer for the current tax year,

(ii) A retail dealer in beer who consummates sales of beer to a limited dealer at the place where such retail dealer in beer has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer for the current tax year, or

(iii) A person who is exempt from such tax under the provisions of §§31.181 and 31.184.

(2) A wholesale dealer in beer who has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax (or from additional registration during the suspension period described in §31.21(b)) on account of his sales of beer to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

[T.D. TTB–36, 70 FR 62248, Oct. 31, 2005]

### §31.27 Limited retail dealer; persons eligible.

Any person selling distilled spirits, beer or wine, or any combination thereof, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization selling distilled spirits, beer or wine, or any combination thereof, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, is a ''limited retail dealer,'' if the person or organization is not otherwise engaged in business as a dealer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1344; sec. 1905, Pub. L. 94–455, 90 Stat. 1819, as amended (26 U.S.C. 5122))

[T.D. ATF–271, 53 FR 17552, May 17, 1988. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### §31.28 Sales of 20 wine gallons (75.7 liters) or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the

case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1413 (26 U.S.C. 5691))

[T.D. ATF–34, 41 FR 46860, Oct. 26, 1976. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

SPECIAL TAX LIABILITY OF CERTAIN ORGANIZATIONS, AGENCIES AND PERSONS

### § 31.29 Clubs or similar organizations.

(a) Subject to paragraph (b) of this section, a club or similar organization shall pay special tax (or register during the suspension period as provided in § 31.21(b)) if such club or organization:

(1) Furnishes liquors to members under conditions constituting sale (including the acceptance of orders therefor, furnishing the liquors ordered and collecting the price thereof); or

(2) Conducts a bar for the sale of liquors on the occasion of an outing, picnic, or other entertainment, unless the club is a ''limited retail dealer'' under § 31.27 (the special tax stamp or registration of the proprietor of the premises where the bar is located will not relieve the club or organization from its own special tax payment or registration); or

(3) Purchases liquors for members without prior agreement concerning payment therefor and such organization subsequently recoups.

(b) Special tax payment or registration is not required if money is collected in advance from members for the purchase of liquors, or money is advanced for purchase of liquors on agreement with the members for reimbursement.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5121, 5122)

[T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### § 31.30 Restaurants serving liquors with meals.

Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, shall pay special tax or shall register during the suspension period as provided in § 31.21(b).

(72 Stat. 1344; 26 U.S.C. 5122)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### § 31.31 States, political subdivisions thereof, or the District of Columbia.

(a) *General.''* A State, a political subdivision thereof, or the District of Columbia which engages in the business of selling, or offering for sale, distilled spirits, wines, or beer is not exempt from special tax. However, no such governmental entity shall be required to pay more than one special tax as a retail dealer in liquors regardless of the number of locations at which such entity carries on business as a retail dealer in liquors. Any such governmental entity which has paid the applicable wholesale dealer special tax at its principal office, and has paid the applicable special tax as a retail dealer, shall not be required to pay additional wholesale dealer special tax at its retail stores by reason of the sale thereat of distilled spirits, wines, or beer, to dealers qualified to do business as such within the jurisdiction of such entity.

(b) *Suspension of tax.* During the suspension period described in § 31.21(b) when no tax is due, the States, their political subdivisions, and the District of Columbia must register only once per tax year by filing a special tax return, Form 5630.5, in accordance with § 31.21(b).

(72 Stat. 1340, 1343, 1344, as amended; 26 U.S.C. 5111, 5113, 5121, 5123)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### § 31.32 Sales of denatured spirits or articles.

Any person who sells denatured spirits or any substance or preparation made with or containing denatured spirits for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or

use for beverage purposes, shall pay special tax or shall register during the suspension period as provided in §31.21(b).

(72 Stat. 1314; 26 U.S.C. 5001)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### §31.33 Sales of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer.

(a) *Special tax.* Special tax payment (or registration during the suspension period as provided in §31.21(b)) will be required with respect to the sale, or offering for sale, of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer, unless such compounds, preparations, or mixtures are unfit for use for beverage purposes and are sold solely for use for nonbeverage purposes.

(b) *Products unfit for beverage use.* Products meeting the requirements for exemption from qualification under the provisions of §19.58 of this chapter shall be deemed to be unfit for beverage purposes for the purposes of this part.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### §31.34 Sales by agencies and instrumentalities of the United States.

Unless specifically exempt by statute, any agency or instrumentality of the United States, including post exchanges, ship's stores, ship's service stores, and commissaries, or any canteen, club, mess, or similar organization operated under regulations of any such agency or instrumentality, which sells, or offers for sale, distilled spirits, wines, or beer shall pay special tax (or register during the suspension period as provided in §31.21(b)) as a dealer in liquors or as a dealer in beer, as the case may be, for carrying on such business.

(72 Stat. 1340, 1343, 1347; 26 U.S.C. 5111, 5121, 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### §31.35 Warehouse receipts covering spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in §31.21(b), every person who sells or offers for sale warehouse receipts for spirits held or stored in a distilled spirits plant, customs bonded warehouse, or elsewhere, is required to file a special tax return and pay special tax as a wholesale dealer in liquors, or as a retail dealer in liquors, as the case may be, at the place where such warehouse receipts are sold, or offered for sale, unless exempt by the provisions of subpart L of this part. During the suspension period, such persons must register as provided in §31.21(b).

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

## Subpart D—Administrative Provisions

### §31.41 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Forms prescribed by this part are available for printing through the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National

Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(5 U.S.C. 552(a); 80 Stat. 383, as amended)

[T.D. ATF–92, 46 FR 46916, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5962, Feb. 27, 1987; T.D. 372, 61 FR 20725, May 8, 1996. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.42 Right of entry and examination.

Any appropriate TTB officer may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this part and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(72 Stat. 1348; 26 U.S.C. 5146)

[Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.43 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.31, Delegation of the Administrator's Authorities in 27 CFR Part 31, Alcohol Beverage Dealers. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

## Subpart E—Places Subject to Special Tax

### § 31.51 Special tax liability incurred at each place of business.

Except as provided in §§ 31.31 and 31.181 through 31.193, payment of special tax (or registration during the suspension period as provided in § 31.21(b)) is required for each and every place where distilled spirits, wines, or beer are sold or offered for sale: *Provided*, That the term ''place'' as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require the payment of additional special tax (or to require additional registration), if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

[T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### § 31.52 Place of sale.

The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(72 Stat. 1347; 26 U.S.C. 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.53 Place of offering for sale.

Liquors are offered for sale (a) at the place where they are kept for sale and where a sale may be effected, or (b) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office for the mere purpose of taking orders, provided in each case the orders received are transmitted to the principal for acceptance at the place where he holds a special tax stamp (or for which he has registered during the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued) or is exempt from special tax or registration as provided in subpart L of this part.

(72 Stat. 1347; 26 U.S.C. 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### § 31.54 Places of storage; deliveries therefrom.

Special tax is not required to be paid (and registration under § 31.21(b) is not required) for warehouses and similar places which are used by dealers merely for the storage of liquors and are not

places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where the dealer holds the required special tax stamp (or for which the dealer has registered during the suspension period described in §31.21(b) when no special tax stamp is issued), the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax (or registration) at such place of storage. Except as provided in §§31.185 and 31.186, a dealer holding a special tax stamp (or having registered during the suspension period) at a given place, who makes actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp (or by registration during the suspension period), shall pay special tax (or shall register during the suspension period as provided in §31.21(b)) at the place where ownership of the liquors is transferred.

(72 Stat. 1340, 1347; 26 U.S.C. 5113, 5143)

[T.D. TTB–36, 70 FR 62249, Oct. 31, 2005]

### §31.55 Caterers.

(a) *General.* Where a contract to furnish liquors is made by a caterer at his place of business where he holds a special tax stamp (or for which he has registered during the suspension period described in §31.21(b)), no payment of special tax (or registration during the suspension period) is required by the serving of the liquors at a different location.

(b) *Additional liability.* Where the contract of a caterer provides for the sale of liquors by the drink at a place, or simultaneously at different places, other than his place of business where he holds a special tax stamp (or for which he has registered during the suspension period described in §31.21(b)), a separate payment of special tax (or registration during the suspension period) is required for each such place.

(c) *Records.* Caterers must maintain sufficient commercial records to verify that their special (occupational) tax liabilities (or registration obligations during the suspension period described in §31.21(b)) have been satisfied for all locations at which activities subject to special (occupational) tax or registration occur. These commercial records should indicate the names and addresses of locations at which alcoholic beverages have been sold or offered for sale and the dates and times that such activities occurred. These commercial records must be available to appropriate TTB officers upon request.

(26 U.S.C. 5121, 5122, 5143, 5555, 6806, 7011)

[T.D. TTB–36, 70 FR 62250, Oct. 31, 2005, as amended by T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### §31.56 Peddling.

No person shall peddle distilled spirits, wines, or beer, except as provided in §§31.126, 31.185, and 31.186. Persons peddling liquors and not meeting the exemptions specified in §§31.126, 31.185, and 31.186 are required to pay special tax (or to register during the suspension period as provided in §31.21(b)) at each place where sales are consummated.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

## SALES IN TWO OR MORE AREAS ON THE SAME PREMISES

### §31.57 General.

Where liquors are sold by a proprietor in two or more areas within his place of business, only one special tax stamp (or one registration during the suspension period described in §31.21(b) when no tax is due and no special tax stamp is issued) is required. Where the proprietor lets to another person or persons the privilege of selling liquors in two or more areas within his place of business, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, each such person shall pay but one special tax, or shall register

only once per tax year during the suspension period in accordance with § 31.21(b).

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

### § 31.58 Hotels.

The proprietor of a hotel who conducts the sale of liquors throughout the hotel premises shall pay but one special tax, or shall register only once per tax year during the suspension period described in § 31.21(b). For example, different areas in a hotel such as banquet rooms, meeting rooms, guest rooms, or other such areas, operated by the proprietor, collectively constitute a single place of business. Where any concessionaire conducts the sale of liquors at two or more areas in a hotel, such areas shall be regarded as a single place of business, and he shall pay but one special tax, or shall register only once per tax year during the suspension period in accordance with § 31.21(b).

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

### § 31.59 Ball park, race track, etc.; sales throughout the premises.

The proprietor of a ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises, who engages in the business of selling liquors throughout such enclosure, including sales from baskets or containers by his employees in his behalf, shall pay but one special tax (or shall register only once per tax year during the suspension period described in § 31.21(b)) for such enclosure. Each concessionaire having the same privilege throughout the enclosure, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, or concessionaires, shall pay but one special tax (or shall register only once per tax year during the suspension period described in § 31.21(b)) for such enclosure.

(72 Stat. 1347; 26 U.S.C. 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

## Subpart F—Each Business Taxable

### § 31.71 Different businesses of same ownership and location.

(a) *General.* Where more than one taxable business is conducted by the same person at the same place, special tax for each business shall be paid at the rates severally prescribed, except as provided in §§ 31.24 and 31.26.

(b) *Suspension of tax.* The person must register for each business during the suspension period as provided in § 31.21(b) when no tax is due, except as provided in §§ 31.24 and 31.26.

(72 Stat. 1347; 26 U.S.C. 5143)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–379, 61 FR 31426, June 20, 1996 and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

### § 31.72 Dealer in beer and dealer in liquors at the same location.

(a) *Rule in effect prior to January 1, 1988.* Any person who was required to pay special tax as a wholesale or retail dealer in beer, who entered business as such, and who thereafter, in the same or a subsequent month prior to January 1, 1988, began to sell distilled spirits or wine shall, in addition, pay the special tax as a wholesale or retail dealer in liquors before commencing the sale, or offering for sale, of distilled spirits or wine.

(b) *Rule in effect on January 1, 1988, and thereafter.* Any person who pays special tax (or who registers during the suspension period as provided in § 31.21(b)) as a retail dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of § 31.103(b)) is exempt from additional special tax (or from additional registration during the suspension period) as a retail dealer in liquors with respect to sales of

distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a retail dealer in beer. Similarly, any person who pays special tax (or who registers during the suspension period as provided in §31.21(b)) as a wholesale dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of §31.103(b)) is exempt from additional special tax (or from additional registration during the suspension period) as a wholesale dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a wholesale dealer in beer.

(26 U.S.C. 5113, 5143)

[T.D. ATF–285, 54 FR 12610, Mar. 28, 1989. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

## Subpart G—Partnerships

### §31.91 Liability of partners.

Any number of persons carrying on one business in partnership at any one place during any tax year shall be required to pay but one special tax (or to register but once during the suspension period as provided in §31.21(b)) for such business.

(72 Stat. 1347; 26 U.S.C. 5143)

[T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

### §31.92 Addition of partners or incorporation of partnership.

Except during the suspension period described in §31.21(b), where a number of persons who have paid special tax as partners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation shall pay special tax before commencing business. During the suspension period described in §31.21(b), the new firm or corporation must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB–36, 70 FR 62250, Oct. 31, 2005]

### §31.93 Formation of a partnership by two dealers.

Except during the suspension period described in §31.21(b), where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm shall pay special tax to cover the business conducted by the partnership. During the suspension period described in §31.21(b), if two registered dealers form a partnership, the firm must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### §31.94 Withdrawal of one or more partners.

When one or more partners withdraw from a partnership which has paid special tax, the remaining partner, or partners, may file with the appropriate TTB officer a notice of succession to the partnership business within 30 days after the change in control, as provided in §31.169, and carry on the same business at the same address for the remainder of the taxable period for which special tax was paid without paying additional special tax. However, except during the suspension period described in §31.21(b), where the remaining partner, or partners, do not file such timely notice of succession, they are required to pay special tax, as provided in §31.170. During the suspension period, the remaining partner or partners must file a new registration on Form 5630.5 within 30 days after the change in control.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

## Subpart H—Payment of Special Tax

### §31.101 Special tax rates.

(a) *Previous rates.* Prior to January 1, 1988, the special (occupational) taxes

imposed on dealers in liquors and beer were as follows:

(1) *Annual (tax year) rates:*

Wholesale dealer in liquors (spirits, wines, beer).....$255.00
Wholesale dealer in beer (beer only) ..... 123.00
Retail dealer in liquors (spirits, wines, beer).....54.00
Retail dealer in beer (beer only).....24.00

(2) *Monthly (calendar month) rates:*

Limited retail dealer (spirits, wines, beer).....$4.50
Limited retail dealer (wines, beer).....2.20

(b) *General*—(1) *Current rates.* Effective January 1, 1988, special (occupational) taxes are imposed on dealers in liquors and beer at the following rates:

Wholesale dealer in liquors (spirits, wines, beer).....$500
Wholesale dealer in beer (beer only) ..... 500
Retail dealer in liquors (spirits, wines, beer) .....250
Retail dealer in beer (beer only) .....250

(2) *Rate during suspension period.* During the suspension period described in § 31.21(b), the special (occupational) tax rate for all dealers in liquor or beer is zero.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, 1343; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5111, 5121))

[T.D. ATF–271, 53 FR 17552, May 17, 1988; 54 FR 11866, Mar. 22, 1989. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### § 31.102 Date special tax is due.

Except during the suspension period described in § 31.21(b), special taxes shall be paid on or before July 1 of each year, or before engaging in business. During the suspension period when no tax is due, dealers must register by filing the special tax return, Form 5630.5, before commencement of business and on or before July 1 of each year thereafter.

(72 Stat. 1346; 26 U.S.C. 5142)

[T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### § 31.103 Computation of special tax.

(a) *General.* In the case of a person engaged in a business subject to special tax during the month of July, the special tax liability shall be reckoned for the entire tax year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately from the first day of the month in which the liability to a special tax commenced to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleven-twelfths of the annual tax.

(b) *Transition rule.* A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55843, Sept. 28, 1979; T.D. ATF–271, 53 FR 17554, May 17, 1988. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## FILING RETURN AND PAYMENT OF SPECIAL TAX

### § 31.104 Time for filing return.

Every person who intends to engage in a business subject to special tax under the provisions of this part shall, on or before the date such business is commenced, file a special tax return, Form 5630.5, with payment of applicable tax; and every taxpayer who continues into a new tax year a business subject to special tax under the provisions of this part shall file a Form 5630.5 with applicable tax on or before July 1 of the new tax year. A taxpayer subject to special tax (or required to register during the suspension period described in § 31.21(b)) for the same period at two or more locations shall file one special tax return, Form 5630.5, prepared as provided in § 31.106, with payment of applicable tax to cover all such locations. If the return and applicable tax are received in the mail and the U.S. postmark on the cover shows

that it was deposited in the mail in the United States within the time prescribed for filing in an envelope or other appropriate wrapper which was properly addressed with postage prepaid, the return shall be considered as timely filed. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used the date of registration shall be accepted as the postmark date.

(68A Stat. 732 as amended, 749 as amended (26 U.S.C. 6011, 6071); sec. 201, Pub. L. 85–859, 72 Stat. 1346 as amended (26 U.S.C. 5142))

[T.D. ATF–70, 45 FR 33979, May 21, 1980, as amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### §31.104a Place for filing return.

Form 5630.5 with remittance of applicable tax shall be filed with TTB in accordance with the instructions on the form.

[T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### §31.105 Method of payment.

Payment of special tax shall be made in cash, or by check or money order payable to Alcohol and Tobacco Tax and Trade Bureau. If a check or money order so tendered is not honored when presented for payment, the person who tendered such check or money order shall remain liable for the payment of the special tax, and for all penalties and additions, to the same extent as if the check or money order had not been tendered. In addition, unless the person who tendered the check or money order can show that such check or money order was issued in good faith, and with reasonable cause to believe that it would be duly paid, there shall be paid as penalty an amount equal to 1 percent of the amount of the check or money order, except that if the amount of the check or money order is less than $500, the penalty shall be $5, or the amount of the check or money order, whichever is lesser.

(68A Stat. 777, 826; 26 U.S.C. 6311, 6657)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

SPECIAL TAX RETURN, FORM 5630.5

### §31.106 Special tax returns.

(a) *General.* Special tax shall be paid by return, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in §31.21(b). The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) *Preparation of TTB Form 5630.5.* All of the information called for on TBF Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see §31.106a).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in §31.21(b).

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ''Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph

need not be stated if the same information has been previously provided to ATF, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax, or required to register during the suspension period described in § 31.21(b), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, TTB Form 5630.5, with payment of applicable tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid or for which registration is being made during the suspension period described in § 31.21(b). The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 31.237.

(26 U.S.C. 6011, 6151, 7011)

[T.D. ATF–271, 53 FR 17552, May 17, 1988. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### § 31.106a Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.113 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

[T.D. ATF–271, 53 FR 17553, May 17, 1988; as amended by T.D. ATF–301, 55 FR 47657, Nov. 14, 1990. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.107 Execution of Form 5630.5.

The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by a member of the firm; and the return of a corporation shall be signed by a duly authorized officer thereof: *Provided,* That any individual, partnership, or corporation may appoint an agent to sign in his behalf. In each case, the person signing the return shall designate his capacity as ''individual owner,'' ''member of firm,'' ''agent,'' ''attorney-in-fact'' or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a dealer by reason of death, insolvency, or other circumstances, shall indicate the fiduciary capacity in which they act. Returns signed by persons, as agents or attorneys-in-fact, will not be accepted unless, in each instance, the principal named on the return has executed a power of attorney authorizing such person to sign the return, and such power of attorney is filed with the TTB officer with whom the Form 5630.5 is required to be filed. Form 11 shall be verified by a written declaration that the return has been

executed under the penalties of perjury.

(68A Stat. 748, 749; 26 U.S.C. 6061, 6065)

[T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### §31.109 Penalty for failure to file return or to pay tax.

(a) *Failure to file return.* Except during the suspension period described in §31.21(b), any person required by this part to file a return on Form 5630.5 who fails to file the return on or before the last date prescribed in §31.104 shall pay, as an addition to the tax, a delinquency penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The delinquency penalty for failure to file the return on or before the last date prescribed shall be 5 percent of the amount required to be shown as tax on the return if the failure is for not more than one month; with an additional 5 percent for each additional month or fraction thereof during which such delinquency continues, but not more than 25 percent in the aggregate. During the suspension period, a failure to file a return may result in a penalty under 26 U.S.C. 5603(b).

(b) *Failure to pay tax.* Any person who files a return on Form 5630.5 under the provisions of this part and who fails to pay the amount shown as tax on the return on or before the date prescribed in §31.104 for payment of such tax, shall pay, as an addition to the tax, a penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The penalty for failure to pay the tax on or before the date prescribed for payment shall be 0.5 percent of the amount shown as tax on the return if the failure is not more than one month; with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not exceeding 25 percent in the aggregate.

(c) *Limitations.* With respect to any return on Form 5630.5, the amount of the addition under paragraph (a) of this section shall be reduced by the amount of the addition under paragraph (b) of this section for any month to which an addition to tax applies under both paragraphs (a) and (b) of this section. If the amount of tax required to be shown as tax on the return is less than the amount shown as tax on such return, the penalties prescribed in paragraphs (a) and (b) of this section shall be applied by substituting such lower amount.

(68A Stat. 821, as amended; 26 U.S.C. 6651)

[T.D. 7110, 36 FR 8034, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### §31.110 Interest on unpaid tax.

(a) *General.* Interest is due on unpaid special tax from the date the tax was required to be paid to the date paid. Interest shall be charged for each day at the rate prescribed by law in effect on that day.

(b) *Adjusted interest rates.* Adjusted interest rates are announced by the Commissioner of Internal Revenue not later than October 15 of any year, in accordance with variations in the prime interest rate during September of that year, as prescribed by 26 U.S.C. 6621(b). The appropriate TTB officer will provide information, when requested, regarding interest rates applicable to specific time periods.

(Sec. 7, Pub. L. 96–625, 88 Stat. 2114 as amended (26 U.S.C. 6621); 68A Stat. 817 (26 U.S.C. 6601))

[T.D. ATF–116, 47 FR 51571, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## DELINQUENT RETURNS

### §31.111 Waiver of penalties.

In every case where a special tax return is not filed, or the tax is not paid, at the time prescribed in §31.104, the delinquency penalties specified in §31.109 for failure to file a return or for failure to pay the amount shown as tax on the return will be asserted and collected unless a reasonable cause for delay in filing the return or payment of the tax is clearly established. A dealer who believes the circumstances which delayed his filing of the return or payment of the tax are reasonable, and who desires to have the penalties

waived, shall submit with his return a written statement under the penalties of perjury, affirmatively showing all of the circumstances alleged as reasonable causes for delay. If the appropriate TTB officer determines that the delinquency was due to a reasonable cause and not to willful neglect or gross negligence, the addition to the tax will not be assessed. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, or if he made a satisfactory showing that he exercised ordinary business care and prudence in providing for payment of his tax liability and was nevertheless either unable to pay the tax or would have suffered an undue hardship if he had paid on the due date, then the delay is due to reasonable cause. Mere ignorance of the law will not be considered a reasonable cause.

(68A Stat. 821, as amended; 26 U.S.C. 6651)

[T.D. 7110, 36 FR 8034, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## Subpart I—Special Tax Stamps

### § 31.121 Issuance of stamps.

(a) *Issuance*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a return properly executed on Form 5630.5, together with a remittance in the applicable full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued in the case of a return covering liability for a past period.

(2) *Exception for suspension period.* During the suspension period described in § 31.21(b) when registration is required but no tax is due, a special tax stamp will not be issued.

(b) *Multiple locations.* If Form 5630.5 with remittance covers multiple locations, the taxpayer will be issued one stamp for each location listed in the attachment to Form 5630.5 required by § 31.106(c) but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(Sec. 1905, Pub. L. 94–455, 90 Stat. 1820 (26 U.S.C. 5142))

[T.D. ATF–42, 42 FR 8369, Feb. 10, 1977, as amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### § 31.121a Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 5630.5 and examine them to insure that his name and address are correctly stated thereon. Incorrect stamps shall be returned to the appropriate TTB officer as provided in § 31.134. The taxpayer shall designate one stamp for each location listed in his copy of the attachment to Form 5630.5 required by § 31.106 and shall type thereon the trade name, if different from the name in which the stamp was issued, and the address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp. On receipt of the stamp at the designated place of business, it shall be examined to verify that the name and address of the business are correctly stated. If they are not, the stamp shall be returned, with a statement showing the nature of the error and the correct data, to the principal office of the taxpayer who will compare the data on the stamp with his retained copy of the attachment to Form 5630.5. If the error in name and address was made by the taxpayer, he will correct the stamp and return it to the designated place of business. If the error was made in the attachment to Form 5630.5, the taxpayer will file with TTB an amended Form 5630.5 and an amended attachment with a statement explaining the error.

[T.D. 7110, 36 FR 8035, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.122 Receipt in lieu of stamp prohibited.

No receipt shall be issued in lieu of a special tax stamp. A receipt may be given only pending the issuance of a stamp, or where the tax liability relates to a prior fiscal year.

(68A Stat. 778; 26 U.S.C. 6314)

### § 31.123 Stamps covering business in violation of State law.

TTB officers are without authority to refuse to issue a special tax stamp to a liquor dealer engaged in business in violation of State law. The stamp is not a Federal permit or license, but is merely a receipt for the tax. The stamp affords the holder no protection against prosecution for violation of State law.

(72 Stat. 1348; 26 U.S.C. 5145)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.124 Passenger trains, aircraft, and vessels.

(a) *Issuance of stamps*—(1) Except as otherwise provided in paragraph (a)(2) of this section, special tax stamps may be issued in general terms ''in the United States'' to persons who will carry on the business of retail dealers in liquors or retail dealers in beer, on trains, aircraft, boats or other vessels, engaged in the business of carrying passengers. If sales of liquors are made at the same time on two or more passenger carriers, a special tax stamp shall be obtained for each such carrier. However, a dealer may transfer any such stamp from one passenger carrier to another on which he conducts his business, without registering the transfer with TTB, and he may conduct such business throughout the passenger carrying train, aircraft, boat or other vessel, to which the stamp is transferred.

(2) During the suspension period described in § 31.21(b) when no tax is due, dealers operating on trains, aircraft, and vessels must register as provided in paragraph (b) of this section, but no special tax stamps will be issued.

(b) *Filing of Form 5630.5 and payment of tax.* A person subject to special tax (or to registration during the suspension period described in § 31.21(b)) on one or more passenger carriers shall file one Form 5630.5, prepared in the manner prescribed in § 31.106(b), with payment of applicable tax in accordance with § 31.101, to cover all such carriers and shall specify on the Form 5630.5 the number of passenger carriers for which special tax is being paid (or for which registration is being completed).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1344 as amended, 1347 as amended (26 U.S.C. 5123, 5143))

[T.D. TTB–36, 70 FR 62251, Oct. 31, 2005]

### § 31.125 Carriers not engaged in passenger service.

Except as provided in § 31.126, the retailing of liquor on any railroad train, aircraft, or boat that is not engaged in the business of carrying passengers is prohibited.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

[T.D. TTB–36, 70 FR 62252, Oct. 31, 2005]

### § 31.126 Supply boats or vessels.

(a) *General.* Subject to paragraph (b) of this section, special tax stamps may be issued to persons carrying on the business of a retail dealer in liquor or a retail dealer in beer on supply boats or vessels operated by them, when such persons operate from a fixed address in a port or harbor and supply exclusively boats or other vessels, or persons thereon, at such port or harbor. Any person desiring to obtain a special tax stamp for such business shall file Form 5630.5, prepared in the manner prescribed in § 31.106(b), with any required remittance, and shall specify on the Form 5630.5, or on an attachment thereto: that the business will consist of supplying exclusively boats, vessels, or persons thereon; the name of the port or harbor at which the business is to be carried on; and the fixed address from which operations are to be conducted—*Provided,* That where such sales are to be made from two or more supply boats or vessels, the dealer shall obtain a special tax stamp for each such boat or vessel, and shall, in addition to the information required above

to be specified on the Form 5630.5 or attachment, specify on the Form 5630.5 the number of supply boats or vessels for which special tax is being paid (or for which registration is being made during the suspension period described in § 31.21(b)). A dealer may transfer any such stamp from any boat or vessel on which he discontinues such sales to any other boat or vessel on which he proposes to conduct such business, without registering the transfer with TTB. If the taxpayer operates from two or more fixed addresses, he shall prepare, as required by § 31.106(c), one tax return, Form 5630.5, to cover all such addresses and shall, in addition, show on the attachment to the Form 5630.5 the number of stamps to be procured for supply boats or vessels operating from each address. On receipt of the special tax stamps, the taxpayer shall designate an appropriate number of stamps for each location and shall type thereon the trade name, if different from the name in which the stamp was issued, and the fixed address of the business conducted at the location for which the stamps are designated. He shall then forward the stamps to the place of business designated on the stamps. The taxpayer shall enter on each stamp received for retailing liquors on supply boats or vessels, immediately after the occupational tax classification, the phrase ''on supply boats'' and in the lower margin the notation, ''Covers supplying exclusively of boats or vessels, or persons thereon, at the Port (or Harbor) of'' followed by the name of such port or harbor.

(b) *Suspension of tax.* During the suspension period described in § 31.21(b), the requirements of paragraph (a) of this section will apply except with regard to the payment of special (occupational) tax and the issuance of special tax stamps.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

[T.D. TTB–36, 70 FR 62252, Oct. 31, 2005]

### § 31.127 Retail dealers "At Large."

(a) *General.* Subject to paragraph (b) of this section, a retail dealer in liquors or a retail dealer in beer whose business requires him to travel from place to place in different States of the United States, such as those who sell at carnivals or circuses, may obtain a special tax stamp ''At Large'' covering his activities throughout the United States with the payment of but one special tax as a retail dealer in liquors or a retail dealer in beer, as required by his business. A dealer desiring such stamp shall state on his special tax return, Form 11, or on an attached statement, the nature of his business and the reason he requires a special tax stamp ''At Large.'' Unless satisfied that the business of the dealer requires him to travel in more than one State, the appropriate TTB officer will not issue a stamp ''At Large'' to the applicant.

(b) *Suspension of tax.* During the suspension period described in § 31.21(b), the requirements of paragraph (a) of this section will apply except with regard to the payment of special (occupational) tax and the issuance of special tax stamps.

(72 Stat. 1344; 26 U.S.C. 5123)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251. 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62252, Oct. 31, 2005]

## STAMP TO BE AVAILABLE FOR EXAMINATION

### § 31.131 General.

Except during the suspension period described in § 31.21(b) when no special tax stamps are issued, a dealer shall keep his special tax stamp available in his place of business for inspection by any appropriate TTB officer during business hours. A dealer holding a special tax stamp as a retail dealer in liquors or a retail dealer in beer ''At Large'' or ''In the United States'' shall keep the stamp available for inspection where he is conducting such business.

(72 Stat. 1348; 26 U.S.C. 5146)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975. Redesingated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62252, Oct. 31, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.132 Lost or destroyed.

If a special tax stamp has been lost or destroyed, the dealer shall immediately notify the appropriate TTB officer who issued the stamp. A ''Certificate in Lieu of Lost or Destroyed Special Tax Stamp'' will be issued to the dealer who submits an affidavit showing to the satisfaction of the appropriate TTB officer that the stamp was lost or destroyed. The certificate shall be kept available for inspection in the same manner as prescribed for a special tax stamp in § 31.131.

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.133 Seizure by State authorities.

Where a stamp designated ''Retail Dealer in Liquors'' is seized by State authorities because it does not conform to the dealer's local license or permit (wine, or wine and beer), the appropriate TTB officer will, on request, issue a ''Certificate in Lieu of Lost or Destroyed Special Tax Stamp'' to show that the dealer has paid special tax as a ''Retail Dealer in Wine'' or ''Retail Dealer in Wines and Beer,'' as the case may require.

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## CORRECTION OF ERRORS ON SPECIAL TAX STAMPS

### § 31.134 Errors disclosed by taxpayers.

On receipt of a special tax stamp, the dealer will examine it to insure that the name and address are correctly stated; if not, the taxpayer will return the stamp to the appropriate TTB officer who issued the stamp with a statement showing the nature of the error and the correct name or address. The appropriate TTB officer, on receipt of such stamp and statement, will compare the data on the stamp with that of the Form 5630.5 in his files, correct the error if made in his office, and return the stamp to the taxpayer. However, if the error was in the taxpayer's preparation of the Form 5630.5, the appropriate TTB officer will require such taxpayer to file a new Form 5630.5, designated ''Amended Return,'' setting forth the taxpayer's correct name and address, and a statement explaining the error on the original Form 5630.5. On receipt of the amended Form 5630.5 and a satisfactory explanation of the error, the appropriate TTB officer will make the proper correction on the stamp and return it to the taxpayer.

[T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987; T.D. ATF–344, 58 FR 40355, July 28, 1993. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.135 Errors discovered on inspection.

When an appropriate TTB officer discovers a material error on a special tax stamp in the name, ownership, or address of the dealer, he will secure from the dealer a new Form 5630.5, designated ''Amended Return,'' showing correctly all of the information required in § 31.106 and, in the body of the form or in an attachment thereto, a statement of the reason for requesting correction of the stamp. On receipt of the amended return and an acceptable explanation for the error, the officer will make the proper correction on the stamp and return it to the taxpayer. However, if the error found by the appropriate TTB officer is on a special tax stamp obtained pursuant to a return on Form 5630.5 filed under the provisions of § 31.106(c), he shall instruct the taxpayer to return the stamp, with a statement showing the nature of the error and the correct data, to the dealer's principal office as provided in § 31.121a.

[T.D. 7110, 36 FR 8035, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

## STAMPS FOR INCORRECT PERIOD OR INCORRECT LIABILITY

### § 31.136 General.

Where a dealer through error has filed a return and paid special tax (or filed a return as a registration during

the suspension period described in § 31.21(b)) for an incorrect period of liability or incorrect class of business, he shall prepare a correct Form 5630.5 for each tax year involved, designating it as an ''Amended Return,'' and submit the amended return, or returns, with remittance for the total applicable tax and additions to the tax (delinquency penalties and interest) incurred, to TTB in accordance with the instructions on the Form 5630.5 or, if the error is discovered by an appropriate TTB officer, to such officer: *Provided,* That, subject to the limitations imposed by 26 U.S.C. 6511, the tax (including additions thereto) paid for the incorrect period of liability or incorrect class of business may be allowed as a credit against the correct tax (including any additions thereto) as provided in § 31.137 or § 31.139 on surrender of the incorrect stamp or stamps with the amended return or returns noted to show that credit is requested. Tax (including additions thereto) paid for a stamp for an incorrect period of liability or incorrect class of business which is not credited as provided in § 31.137 or § 31.139, including any creditable tax and additions thereto in excess of the correct tax (including additions thereto), may be refunded pursuant to the provisions of subpart M of this part where the dealer has filed a correct return on Form 5630.5 with remittance for the correct amount of tax (including any additions thereto). A new stamp will be issued only in respect of a current period of liability.

(68A Stat. 732; 26 U.S.C. 6011)

[T.D. 7008, 34 FR 3666, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55844, Sept. 28, 1979; T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62252, Oct. 31, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.137 Credit by an ATF officer.

Where the appropriate TTB officer discovers that tax was paid for an incorrect class of business for a correct period of liability and examination of the incorrect stamp discloses that no additions to the tax were collected, he may, where the correct tax (including any additions thereto) exceeds the incorrect tax paid, credit the tax paid against such correct tax on receipt by him of an amended Form 5630.5, as provided in § 31.136, remittance of the difference between the tax paid and the correct tax plus any additions thereto, and the incorrect stamp. The appropriate TTB officer will issue a correct stamp if the additional tax collected is for a current year.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.138 Receipt for taxes.

The appropriate TTB officer will issue a receipt to a dealer if cash is received as a remittance in payment of special tax (including penalties and interest, if any), or for any type of remittance received if the dealer requests a receipt.

[T.D. ATF–21, 40 FR 56887, Dec. 5, 1975. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.139 Credit for incorrect stamp.

The appropriate TTB officer may credit the tax (including additions thereto) paid for an incorrect stamp if the taxpayer has filed an amended return on Form 5630.5, as provided in § 31.136, and has, with his amended return, surrendered the incorrect stamp for credit and submitted a remittance for the difference between the incorrect tax and the correct tax. Where the tax (and additions thereto) paid for the incorrect stamp surrendered exceeds the amount due, the appropriate TTB officer shall advise the dealer to file claim for refund of such excess on TTB Form 2635 (5620.8). The applicable provisions of subpart M of this part shall govern claims for refund.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

[T.D. 7008, 34 FR 3666, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15 1975, and amended by T.D. ATF–251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## Subpart J—Change of Location

### § 31.151 Amended return, Form 5630.5; endorsement on stamp.

(a)(1) *General.* Subject to paragraph (a)(2) of this section, a dealer who, during the tax year for which special tax was paid (or for which registration was completed during the suspension period described in § 31.21(b)), removes the business to a place other than that specified on the original special tax return on Form 5630.5, shall, within 30 days from the date the dealer begins to carry on such business at the new location, register the change with TTB by filing a new return on Form 5630.5, designated ''Amended Return'', setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp with the Form 5630.5 for endorsement of the change in location: *Provided,* That a dealer, whose original return on TTB Form 5630.5 covered only one location, may deliver the amended return and the stamp at any TTB office, or to any TTB officer inspecting the business, in lieu of mailing them to TTB: *Provided further,* That a dealer who filed an original return under the provisions of § 31.106(c) shall forward with the amended return an attachment showing both the old and new address of any place of business which has been relocated, and the special tax stamp covering the location from which the business was removed. The appropriate TTB officer or the TTB officer receiving such return or stamp shall, if the return is submitted within the 30-day period, enter the proper endorsement on the stamp and return it to the taxpayer.

(2) If the change of location occurs during the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, the requirements of paragraph (a)(1) of this section still apply, except with regard to surrendering the special tax stamp.

(b) *Caterers.* A caterer who sells liquor by the drink at locations other than his or her principal place of business shall not be required to provide the change of location registration prescribed in paragraph (a) of this section for such catering activities provided the records prescribed by § 31.55(c) are maintained as required. For a permanent change in location of the principal place of business, an amended return must be filed in accordance with paragraph (a) of this section.

[T.D. 7008, 34 FR 3666, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–21, 40 FR 56887, Dec. 5, 1975; T.D. ATF–251, 52 FR 19336, May 22, 1987; T.D. ATF–271, 53 FR 17553, May 17, 1988; T.D. ATF–329, 57 FR 39598, Sept. 1, 1992. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62252, Oct. 31, 2005]

### § 31.152 Failure to register change of address within 30 days.

(a)Except as otherwise provided in paragraph (b) of this section, a dealer who removes his business to a place other than that stated on his Form 5630.5, Special Tax Registration and Return, and fails to register such removal with TTB within 30 days from the date he begins to carry on such business at the new location is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in business for the first time (as to liability for delinquency penalty see § 31.109). The amount of tax, delinquency penalty, and interest to be paid shall be computed as provided in §§ 31.103, 31.109, and 31.110, respectively.

(b) During the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, a failure to register the change of address may result in a penalty under 26 U.S.C. 5603(b).

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.153 Certificate in lieu of lost or destroyed special tax stamp.

The provisions of this part shall apply to certificates in lieu of lost or destroyed special tax stamps issued to

taxpayers under the provisions of §§ 31.132 and 31.133.

[25 FR 6270, July 2, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## Subpart K—Change in Proprietorship or Control

### § 31.161 Sale of business.

A special tax stamp is a receipt for tax, personal to the one to whom issued, and is not transferable from one dealer to another. Where a change occurs in the proprietorship of a business for which special tax has been paid or for which registration has been completed during the suspension period described in § 31.21(b), the successor shall pay special tax (or shall register during the suspension period) for such business, except as provided in § 31.169.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.162 Incorporation of business.

Where an individual or a firm engaged in business requiring payment of special tax (or requiring registration during the suspension period described in § 31.21(b)) forms a corporation to take over and conduct the business, the corporation (a separate legal entity) shall pay special tax (or shall register during the suspension period) in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.163 New corporation.

Where a new corporation is formed to take over and conduct the business of one or more corporations which have paid special tax (or which have registered during the suspension period described in § 31.21(b)), the new corporation shall pay special tax (or shall register during the suspension period) in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.164 Stockholder continuing business of corporation.

A special tax stamp held (or a registration completed during the suspension period described in § 31.21(b)) by a corporation as a dealer in liquors, or as a dealer in beer, cannot cover the same business carried on by one or more of its stockholders after dissolution of the corporation.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.165 Change in trade name or style of business.

A dealer who has paid the special tax (or who has registered during the suspension period described in § 31.21(b)) for his business at a given location is not required to pay additional special tax (or to complete a new registration) by reason of a mere change in the trade name or style under which he conducts such business, or by reason of a change in management which involves no change in proprietorship of the business.

(72 Stat. 1340, 1343, 26 U.S.C. 5111, 5121)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.166 Change of name or increase in capital stock of a corporation.

Additional special tax (or additional registration during the suspension period described in § 31.21(b)) is not required by reason of a change of name or increase in the capital stock of a corporation if a new corporation is not

created under the laws of the State of incorporation.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.167 Change in ownership of capital stock.

Additional special tax (or additional registration during the suspension period described in § 31.21(b)) is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.168 Change in membership of unincorporated club.

Additional special tax (or additional registration during the suspension period described in § 31.21(b)) is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club.

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.169 Change of control, persons having right of succession.

Certain persons may, without paying additional special tax, secure the right to carry on the same business at the same address for the remainder of the tax year for which the special tax was paid, or for which registration was made during the suspension period described in § 31.21(b). Such persons are:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased dealer;

(b) A husband or wife succeeding to the business of his or her living spouse;

(c) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(d) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure such right, the person or persons continuing the business shall file with TTB, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 5630.5, showing the basis of the succession, and (except if the change of control occurs during the suspension period described in § 31.21(b) when a special tax stamp is not issued) shall surrender the unexpired special tax stamp or stamps for endorsement of the change in control: *Provided,* That, if the original return, Form 5630.5, was filed under the provisions of § 31.106(b), the person succeeding to the business may deliver the amended return and stamp to any TTB office, or to any TTB officer inspecting the business, in lieu of mailing them to TTB. If the applicant has the right of succession and the return and stamp are submitted on time, the appropriate TTB officer or other TTB officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[T.D. 7110, 36 FR 8036, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975; as amended at 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.170 Failure to perfect right of succession within 30 days.

(a) Except as otherwise provided in paragraph (b) of this section, a person who would have had the privilege of succeeding, as provided in § 31.169, to a business for which the special tax had been paid for the remainder of the taxable period but failed to register such succession within 30 days from the date he began to carry on such business is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in a new business (as to liability for delinquency penalty see

§ 31.109). The amount of tax, delinquency penalty, and interest to be paid shall be computed as provided in §§ 31.103, 31.109, and 31.110.

(b) During the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

## Subpart L—Exemptions and Exceptions

PERSONS EXEMPT FROM LIQUOR AND BEER DEALER SPECIAL TAXES

### § 31.181 Single sale of liquors or warehouse receipts.

A single sale of distilled spirits, wines, or beer, or a single sale of one or more warehouse receipts for distilled spirits, unattended by circumstances showing the person making the sale to be engaged in the business, does not subject the vendor to special tax, or to the registration requirement during the suspension period described in § 31.21(b).

(72 Stat. 1340, 1343, 1346; 26 U.S.C. 5111, 5121, 5142)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.182 Proprietors of distilled spirits plants selling certain distilled spirits or wines.

(a) *Exemption of proprietor.* No proprietor of a distilled spirits plant shall be required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the appropriate TTB officer, or at his distilled spirits plant, of distilled spirits or wines which, at the time of sale, are stored at his distilled spirits plant, or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax or registration under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax (or from registration during the suspension period described in § 31.21(b)) with respect to sales at his principal business office rather than for sales at his plant, he shall notify the appropriate TTB officer of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the appropriate TTB officer. Where the exemption is claimed for a place other than the plant, special tax shall be paid (or registration shall be completed during the suspension period described in § 31.21(b)) at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

### § 31.183 Proprietors of bonded wine cellars selling certain wines or wine spirits.

(a) *Exemption of proprietor.* No proprietor of a bonded wine cellar shall be required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the appropriate TTB officer, or at his bonded wine cellar, of wines or wine spirits which, at the time of sale, are stored at his bonded wine cellar, or had been removed

from such bonded wine cellar to a taxpaid storeroom the operations of which are integrated with the operations of such bonded wine cellar and which is contiguous or adjacent to, or in the immediate vicinity of, such bonded wine cellar. However, no such proprietor shall have more than one place of sale, as to each bonded wine cellar, that shall be exempt from special tax or registration under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the bonded wine cellar where the wines or wine spirits are stored. If the proprietor wishes to be exempt from special tax (or from registration during the suspension period described in §31.21(b)) with respect to sales at his principal office rather than for sales at his bonded wine cellar, he shall notify the appropriate TTB officer of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the appropriate TTB officer. Where the exemption is claimed for a place other than the bonded wine cellar, special tax shall be paid (or registration shall be made during the suspension period described in §31.21(b)) at the bonded wine cellar if sales are made thereat.

(c) *Exception.* Where the proprietor of a bonded wine cellar consummates sales of wines to other dealers at the purchasers' places of business, through a delivery route salesman or otherwise, the proprietor of the bonded wine cellar is required to pay special tax (or to register during the suspension period described in §31.21(b)) as a wholesale dealer in liquors (or wines) at each place from which he conducts such selling operations.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62253, Oct. 31, 2005]

## §31.183a Proprietors of taxpaid wine bottling houses selling certain wines.

(a) *Exemption of proprietor.* No proprietor of a taxpaid wine bottling house shall be required to pay special tax as a wholesale or retail dealer in liquors for a period beginning on or after January 1, 1988, (including such tax under the transition rule of §31.103(b)), and no such proprietor shall be required to register during the suspension period described in §31.21(b), on account of sales of wine transacted at the proprietor's principal business office, as designated in writing to the appropriate TTB officer, or at the proprietor's taxpaid wine bottling house. However, this exemption applies only to wines which, at the time of sale, are either stored at the taxpaid wine bottling house or had been removed therefrom to a taxpaid storeroom whose operations are integrated with those of the taxpaid wine bottling house and which is contiguous or adjacent to, or in the immediate vicinity of, the taxpaid wine bottling house. Moreover, no such proprietor shall have more than one place of sale, as to each taxpaid wine bottling house, that shall be exempt from special tax or registration under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the taxpaid wine bottling house where the wines are stored. If the proprietor wishes to be exempt from special tax (or from registration during the suspension period described in §31.21(b)) with respect to sales at the proprietor's principal office rather than at the proprietor's taxpaid wine bottling house, the proprietor shall so notify the appropriate TTB officer. The notice shall be in writing, on letter size paper, and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the proprietor's principal office, and the original will be retained by the appropriate TTB officer. Where the exemption is claimed for a place other than the taxpaid wine bottling house, special tax shall be paid (or registration shall be completed during the suspension period described in §31.21(b)) at the taxpaid wine bottling house if sales are made there.

(c) *Exception.* Where the proprietor of a taxpaid wine bottling house consummates sales of wines to other dealers at the purchasers' places of business, through a delivery route salesman or otherwise, the proprietor of the taxpaid wine bottling house is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale dealer in liquors at each place from which the proprietor conducts such selling operations.

(26 U.S.C. 5113)

[T.D. ATF–285, 53 FR 12610, Mar. 28, 1989. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.184 Proprietors of breweries selling beer stored at their breweries.

(a) *Exemption of proprietor.* No proprietor of a brewery shall be required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in beer on account of the sale at his principal business office as designated in writing to the appropriate TTB officer, or at his brewery, of beer which, at the time of sale, is stored at his brewery, or had been removed from such brewery to a taxpaid storeroom the operations of which are integrated with the operations of such brewery and which is contiguous or adjacent to, or in the immediate vicinity of, such brewery. However, no such proprietor shall have more than one place of sale, as to each brewery, that shall be exempt from special tax or registration under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the brewery where the beer is stored. If the proprietor wishes to be exempt from special tax (or from registration during the suspension period described in § 31.21(b)) with respect to sales at his principal office rather than for sales at his brewery, he shall notify the appropriate TTB officer of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the appropriate TTB officer. Where the exemption is claimed for a place other than the brewery, special tax shall be paid (or registration shall be completed during the suspension period described in § 31.21(b)) at the brewery if sales are made thereat.

(c) *Exception.* Where the proprietor of a brewery consummates sales of beer to dealers at the purchasers' places of business (through delivery route salesmen or otherwise), such proprietor is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale dealer in beer at each place from which he conducts such selling operations.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.185 Wholesale dealers in liquors consummating sales of wines or beer at premises of other dealers.

(a) *Sales of wines.* Any wholesale dealer in liquors (including the proprietor of a bonded wine cellar) who has paid special tax (or who has registered during the suspension period described in § 31.21(b)) as a wholesale dealer in liquors for the place from which he conducts his selling operations may consummate sales of wines to other wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' places of business without being required to pay additional special tax or register on account of such sales.

(b) *Sales of beer.* Any wholesale dealer in liquors who has paid the tax (or who has registered during the suspension period described in § 31.21(b)) as provided in paragraph (a) of this section may also consummate sales of beer to wholesale or retail dealers in beer, to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' place of business without

being required to pay additional special tax or register on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.186 Wholesale dealers in beer consummating sales at premises of other dealers.

Any dealer (including the proprietor of a brewery) who has paid special tax (or who has registered during the suspension period described in § 31.21(b)) as a wholesale dealer in beer for the place from which he conducts his selling operations may consummate sales of beer (but not wines or distilled spirits) to other dealers at the purchasers' places of business without being required to pay additional special tax or register on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.187 Hospitals.

Hospitals and similar institutions furnishing liquors to patients are not required to pay special tax, or to register during the suspension period described in § 31.21(b), provided no specific or additional charge is made for the liquors so furnished.

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.187a Limited retail dealers.

Limited retail dealers, as specified in § 31.27, are not required to pay special tax, or to register during the suspension period described in § 31.21(b).

[T.D. ATF–271, 53 FR 17553, May 17, 1988. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886 Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.187b Coordination of taxes under 26 U.S.C. 5111 and 5121.

Effective January 1, 1988, special tax is not imposed concurrently under both 26 U.S.C. 5111(a) (relating to wholesale liquor sales) and 26 U.S.C. 5111(b) (relating to wholesale beer sales), nor under both 26 U.S.C. 5121(a) (relating to retail liquor sales) and 26 U.S.C. 5121(b) (relating to retail beer sales), with respect to a taxpayer's activities at a single place during a single tax year. (See § 31.72.)

(26 U.S.C. 5113(g), 5123(c))

[T.D. ATF–285, 54 FR 12611, Mar. 28, 1989. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886 Apr. 15, 2005]

## PERSONS WHO ARE NOT DEALERS IN LIQUORS OR BEER

### § 31.188 Persons making casual sales.

Certain persons making casual sales of liquors are not liquor or beer dealers within the meaning of the statute; they are as follows:

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters);

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at a public auction in parcels of not less than 20 wine gallons (75.7 liters);

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters); or,

(d) A retiring partner, or representative of a deceased partner, who sells distilled spirits, wines, or beer to the incoming or remaining partner, or partners, of a partnership.

Persons making such sales are not required to pay special tax (or to register during the suspension period described

in § 31.21(b)) or keep the records or reports required of dealers in subpart O of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340 (26 U.S.C. 5113))

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46860, Oct. 26, 1976. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.189 Agents, auctioneers, brokers, etc., acting on behalf of others.

Certain persons may sell liquors as agents or employees of others, or receive and transmit orders therefor to a dealer, without being considered liquor or beer dealers on account of such activities; they are as follows:

(a) Auctioneers who merely sell liquors at auction on behalf of others,

(b) Agents or brokers who merely solicit orders for liquors in the name of a principal, but neither stock nor deliver the liquors for which orders are taken,

(c) Employees who merely sell liquors on behalf of their employers, and

(d) Retail dealers in liquors or retail dealers in beer who merely receive and transmit to a wholesale dealer orders for liquors or beer to be billed, charged, and shipped to customers by such wholesale dealers.

Such persons, who have no property rights in the liquors or beer sold, may make collections for their principals and receive commissions for their services, or guarantee the payment of accounts, without being required to pay special tax or to register during the suspension period described in § 31.21(b). In all such cases, however, the principal is required to pay special tax (or to register during the suspension period described in § 31.21(b)) at each place where sales are consummated, unless he is exempt therefrom under the provisions of this subpart.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46860, Oct. 26, 1976. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.190 Apothecaries or druggists selling medicines and tinctures.

Apothecaries and druggists who use wines or spirituous liquors for compounding medicines and in making tinctures which are unfit for use for beverage purposes are not required to pay special tax (or to register during the suspension period described in § 31.21(b)) as dealers in liquors by reason of the sale of such compounds or tinctures for nonbeverage purposes.

(72 Stat. 1328; 26 U.S.C. 5025)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46860, Oct. 26, 1976. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.191 Persons selling products unfit for beverage use.

(a) *Vendors not deemed dealers in liquors or beer.* No person selling or offering for sale for nonbeverage purposes products classed as unfit for beverage use under the provisions of § 19.58 of this chapter shall be deemed, solely by reason of such sales, to be a dealer in liquors.

(b) *Restrictions.* Any person who sells or offers for sale any nonbeverage products for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax (or shall register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in liquors or as a wholesale or retail dealer in beer, as the case may be.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–379, 61 FR 31426, June 20, 1996. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

### § 31.192 Retail dealer selling in liquidation his entire stock.

No retail dealer in liquors or retail dealer in beer, selling in liquidation his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of beer, which parcels may contain a combination of any or all such liquors, to any other dealer shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, by reason of such sale or sales. A retail dealer making such

sale or sales is not required to keep records or submit reports thereof.

(72 Stat. 1340; 26 U.S.C. 5113)

### § 31.193 Persons returning liquors for credit, refund, or exchange.

No retail dealer in liquors or beer, or other person, shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as defined in this part, by reason of his bona fide return of distilled spirits, wines, or beer, as the case may be, to the dealer from whom purchased (or to the successor of such vendor's business or line of merchandise) for credit, refund, or exchange, and the giving of such credit, refund or exchange shall not be deemed to be a purchase within the meaning of 26 U.S.C. 5117 of § 31.211 of this part. Except in the case of wholesale dealers in liquors required to keep records of their transactions under §§ 31.225 and 31.226, or retail dealers required to keep records under § 31.234, persons returning liquors as provided herein are not required to keep records or submit reports of such transactions.

(72 Stat. 1340, 1343; 26 U.S.C. 5113, 5117)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55844, Sept. 28, 1979; T.D. ATF–116. 47 FR 51571, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

## Subpart M—Refund of Special Taxes

### § 31.201 Claims.

Claims for abatement of assessment of special tax (including penalties and interest), or for refund of an overpayment of special tax (including interest and penalties), shall be filed on Form 2635 (5620.8). Claims shall be filed with the appropriate TTB officer. Each claim shall set forth in detail each ground on which it is made and shall contain facts sufficient to apprise the Alcohol and Tobacco Tax and Trade Bureau of the exact basis thereof. If the claim is for refund of special tax for which a stamp was issued, such stamp shall be attached to and made a part of the claim, or the claimant shall include in the claim evidence satisfactory to the Alcohol and Tobacco Tax and Trade Bureau that the stamp cannot be submitted.

[T.D. ATF–251, 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

### § 31.202 Time limit on filing of claim.

No claim for the refund of a special tax or penalty shall be allowed unless presented within 3 years next after the payment of such tax or penalty.

(68A Stat. 808; 26 U.S.C. 6511)

### § 31.203 Discontinuance of business.

A dealer who for any reason discontinues business is not entitled to refund for the unexpired portion of the fiscal year for which the special tax stamp was issued.

(72 Stat. 1346; 26 U.S.C. 5142)

## Subpart N—Restrictions Relating to Purchases of Distilled Spirits

### § 31.211 Unlawful purchases of distilled spirits.

(a) *General.* Except as otherwise provided in paragraphs (b) and (c) of this section, it is unlawful for any dealer to purchase distilled spirits for resale from any person other than:

(1) A dealer who has paid special tax as a wholesale dealer in liquors at the place where the distilled spirits are purchased;

(2) A wholesale dealer whose place of business comes within the exemptions provided by § 31.151 for changes in location and § 31.169 for changes in control;

(3) The proprietor of a distilled spirits plant who is exempt from special tax as a dealer at the place where the distilled spirits are purchased;

(4) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia, which is not required to pay special tax as a wholesale dealer in liquors as provided in § 31.31;

(5) A person not required to pay special tax as a wholesale liquor dealer, as provided in §§ 31.188 through 31.190 and 31.192 through 31.193.

(b) *Suspension of tax.* During the period of suspension of special (occupational) tax described in § 31.21(b), it is unlawful for any dealer to purchase

distilled spirits for resale from any person other than:

(1) A wholesale dealer (including a State, a political subdivision thereof, the District of Columbia, and a distilled spirits plant) who is required to keep records under §§ 31.221 through 31.233 at the place where the distilled spirits are purchased;

(2) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia; or

(3) A person not required to register as a wholesale liquor dealer, as provided in §§ 31.188 through 31.190, § 31.192, and § 31.193.

(c) *Special provisions for limited retail dealers.* A limited retail dealer may purchase distilled spirits for resale from a retail dealer in liquors.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1343; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5117))

[T.D. ATF–42, 42 FR 8370, Feb. 10, 1977. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–36, 70 FR 62254, Oct. 31, 2005]

## Subpart O—Prescribed Records and Reports, and Posting of Signs

WHOLESALE DEALERS' RECORDS AND REPORTS

### § 31.221 General requirements as to distilled spirits.

Except as provided in §§ 31.223 and 31.224, every wholesale dealer in liquors shall keep daily records of the physical receipt and disposition of distilled spirits, as prescribed in §§ 31.225 and 31.226. When required in writing by the appropriate TTB officer, dealers shall also prepare and file a monthly summary report totaling the daily receipts and disposition of distilled spirits as prescribed in § 31.230.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–116, 47 FR 51571, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

### § 31.222 Requirements as to wines and beer.

Each wholesale dealer in liquors who receives wines, or wines and beer, and each wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. This record, which must be kept for a period of not less than three years as prescribed in § 31.237, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or submit reports to the appropriate TTB officer of transactions relating to wines and beer.

(Approved by the Office of Management and Budget under control number 1512–0353)

(68A Stat. 731 (26 U.S.C. 6001); sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555))

[T.D. ATF–50, 43 FR 20494, May 12, 1978, as amended by T.D. ATF–116, 47 FR 51571, Nov. 16, 1982; T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

### § 31.223 Records to be kept by States, political subdivisions thereof, or the District of Columbia.

The provisions of this subpart relative to the maintenance of records and the submission of reports shall not apply to States, political subdivisions thereof, or the District of Columbia, or any liquor stores operated by such entities that maintain and make available for inspection by appropriate TTB officers records which will enable such officers to verify receipts of wines and beer and trace readily all distilled spirits received and disposed of by them: *Provided*, That such States, political subdivisions thereof, or the District of Columbia, and liquor stores operated by them, shall, on request of the appropriate TTB officer, furnish such transcripts, summaries, and copies of their records as he shall require.

(72 Stat. 1342, 1348, 1395; 26 U.S.C. 5114, 5146, 5555)

[Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.224 Records to be kept by proprietors of distilled spirits plants.

Wholesale liquor dealer operations conducted by proprietors of distilled

spirits plants shall be recorded and reported in accordance with the applicable provisions of Part 19 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended (26 U.S.C. 5114); sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF–62, 44 FR 71693, Dec. 11, 1979. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.225 Records of receipt.

(a) *Information required.* Every wholesale dealer in liquors shall maintain a daily record of the physical receipt of each individual lot or shipment of distilled spirits, which record shall show (1) name and address of consignor, (2) date of receipt (to include date of inventory for recorded gains), (3) brand name, (4) name of producer or bottler, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying the producer or bottler with the brand name, (5) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying ''kind'' with the brand name, (6) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any difference from the quantity shown on the commercial papers covering the shipment), and (7) package identification numbers of containers of alcohol received for repackaging for industrial use pursuant to subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section will be a part of the accounting system and shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of distilled spirits, to include records of inventory for recorded gains), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information.

(Approved by the Office of Management and Budget under control number 1512–0353)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–46, 42 FR 44758, Sept. 6, 1977, as amended by T.D. ATF–116, 47 FR 51571, Nov. 16, 1982; T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.226 Records of disposition.

(a) *Information required.* Every wholesale dealer in liquors shall prepare a daily record of the physical disposition of each individual lot of distilled spirits, which record shall show (1) name and address of consignee, (2) date of disposition (to include date of discovery in the case of casualty, theft or recorded inventory losses), (3) brand name, (4) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying ''kind'' with the brand name, (5) number of packages, if any, and number of cases by size of bottle, and (6) package identification numbers of containers of alcohol repackaged for industrial use pursuant to subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section will be part of the accounting system and shall consist of wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits, to include date of discovery in the case of casualty, theft or recorded inventory losses) which contain all required information.

(Approved by the Office of Management and Budget under control number 1512–0353)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–46, 42 FR 44759, Sept. 6, 1977, as amended by T.D. ATF–116, 47 FR 51571, Nov. 16, 1982; T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.227 Canceled or corrected records.

Entries on the records of receipt and disposition prescribed by §§ 31.225 and 31.226 shall not be erased or obliterated. Correction or deletion of any entry shall be accomplished by drawing a line through such entry, and making appropriate correction or explanation. If a wholesale dealer in liquors voids an invoice for any reason, the file copy prescribed in § 31.235 will be marked ''Cancelled'' and be filed as provided in that section; any remaining copy of the voided invoice will be destroyed or similarly cancelled and filed. If a new invoice is prepared, its serial number will be cross referenced on any retained copies of the cancelled invoice.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

[T.D. 7014, 34 FR 8912, June 4, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF–116, 47 FR 51572, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

### § 31.228 Previously prescribed or approved records of receipt and disposition.

A wholesale dealer in liquors may continue to use records of receipt and disposition in a format previously prescribed, or approved for him, provided he gives written notice of such intent to the appropriate TTB officer. Such records shall show the information required by paragraph (a) of § 31.225 or paragraph (a) of § 31.226, as applicable. Such records shall be preprinted with the name and address of the wholesale dealer. Each sheet or page shall bear a preprinted serial number, or page serial numbers may be affixed in unbroken sequence during the preparation or processing of the records. A serial number shall not be duplicated within a period of 6 months.

(72 Stat. 1342; 26 U.S.C. 5114)

[T.D. 7014, 34 FR 8912, June 4, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. TTB–25, 70 FR 19884, 19886, Apr. 15, 2005]

### § 31.229 Variations in format, or preparation, of records.

(a) *Authorization.* The appropriate TTB officer may approve variations in the type and format of records of receipt and disposition, or in the methods of preparing such records, where it is shown that variations from the requirements are necessary in order to use data processing equipment, other business machines, or existing accounting systems, and will not (1) unduly hinder the effective administration of this part, (2) jeopardize the revenue, or (3) be contrary to any provision of law. A dealer who proposes to employ such a variation shall submit written application so to do to the appropriate TTB officer. Such application shall describe the proposed variations and set forth the need therefor. The appropriate TTB officer will determine the need for the variations, and whether approval thereof would unduly hinder the effective administration of this part or result in jeopardy to the revenue. Variations in type and format of records or methods of preparation shall not be employed until approval is received from the appropriate TTB officer.

(b) *Requirements.* Any information required by this part to be kept or filed is subject to the provisions of law and this part relating to required records and reports, regardless of the form or manner in which kept or filed.

(Approved by the Office of Management and Budget under control number 1512–0357)

[T.D. 7014, 34 FR 8912, June 4, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

### § 31.230 Monthly summary report.

(a) *Requirement.* Every wholesale dealer in liquors shall, when required, submit to the appropriate TTB officer, a monthly summary report of the total quantities of all distilled spirits received and disposed of daily during the month (including the date of discovery for theft, casualty and inventory losses and inventory gains). This report will be posted by the wholesaler on a daily basis. If there were no receipts or disposals of distilled spirits during the month, the report will be marked ''No Transactions During Month.'' This report will be filed not later than the 15th day of the month following the report period, and a copy retained by the dealer. Upon receipt of an application

the appropriate TTB officer may authorize a dealer to post the report less frequently until otherwise notified. The appropriate TTB officer's authorization will specify the intervals at which the posting will be accomplished, but not less frequently than monthly.

(b) *Form of report.* When required, the monthly summary report may be prepared in a format which most conveniently adapts itself to the dealer's accounting and recordkeeping systems. In addition to any other information shown therein, the report will include the daily totals of all distilled spirits received and disposed of, including dispositions caused by inventory, casualty or theft losses and receipts caused by recorded gains in inventory; and

(1) Daily totals of all bottled spirits received and disposed of, recorded separately by wine gallons, or liters,

(2) Daily totals of all bulk spirits in packages received and disposed of, recorded separately by proof gallons.

(c) *Declaration.* When required to be filed, the monthly summary report will bear the following declaration signed by the dealer or an authorized agent:

I declare under the penalties of perjury that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete, and is supported by true, correct, and complete records which are available for inspection.

(d) When the monthly summary report is not required by the appropriate TTB officer to be filed, every wholesale dealer in distilled spirits is still required to maintain and make available for review by appropriate TTB officers:

(1) Records of receipt, required by § 31.225;

(2) Records of disposition, required by § 31.226; and

(3) Any other supporting information or documents regarding the receipt and disposition of distilled spirits which have a direct bearing in determining the completeness and accuracy of the accounting and recordkeeping systems.

(Approved by the Office of Management and Budget under control number 1512–0353)

(Act of August 16, 1954, 68A Stat. 749 (26 U.S.C. 6065); sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1348, as amended, 1395, as amended (26 U.S.C. 5114, 5146, 5555))

[T.D. ATF–116, 47 FR 51572, Nov. 16, 1982, and amended by T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.231 Conversion between metric and U.S. units.

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows:

(a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal.

(b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth.

Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF–198, 50 FR 8542, Mar. 1, 1985. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.232 Discontinuance of business.

When a wholesale dealer in liquors, who is required under § 31.230 to file a monthly summary report, discontinues business, a monthly summary report marked ''Final'' shall be filed covering transactions through the date of discontinuance.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–115, 47 FR 51572, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

### § 31.233 Requirements when a wholesale dealer in liquors maintains a retail department.

(a) When a wholesale dealer in liquors maintains a separate department on the premises for the retailing of distilled spirits, and the retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may ''constructively'' receive all distilled spirits in the retail department. Sales involving a wholesale transaction may be ''constructively'' sold through the wholesale department.

(1) *Receipts.* In lieu of maintaining and preparing the records required by §§ 31.225 and 31.226, a wholesale dealer may constructively receive *all* distilled spirits in its retail department. In this case, the receiving document will serve as a receipt for (through) the wholesale department and a disposition (transfer) to the retail department. The receiving document will be maintained by the retail department, as required by § 31.234.

(2) *Dispositions.* In lieu of the records required by § 31.226, a wholesale dealer may constructively sell distilled spirits from its retail department to other dealers. The sales invoice or bill will be filed in the wholesaler's disposition records and will serve as a record of receipt from the retail department and a record of disposition to another dealer.

(b) Except as provided in paragraph (a) of this section, a wholesale dealer shall prepare and maintain the required records of receipt and disposition as prescribed in §§ 31.225 and 31.226. Transfers between the wholesale and retail departments will be treated in the same manner as any other transaction involving the wholesale department.

(c) When required by § 31.230, a wholesale dealer shall prepare and file the monthly summary report of actual or constructive receipts and dispositions of all distilled spirits.

(d) Wholesale and retail departments need not be physically separated.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1345, as amended, 1395, as amended (26 U.S.C. 5114, 5124, 5555))

[T.D. ATF–116, 47 FR 51572, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

RETAIL DEALER'S RECORDS

### § 31.234 Requirements for retail dealers.

(a) *Records of receipt.* All retail dealers shall keep at their place of business complete records of all distilled spirits, wines, or beer received showing (1) the quantities thereof, (2) from whom received, and (3) the receiving dates. The appropriate TTB officer may, pursuant to an application authorize the records to be maintained at another business premises under the control of the same dealer when it is determined that such maintenance will not cause undue inconvenience to appropriate TTB officers desiring to examine such records. Records of receipts shall consist of all purchase invoices or bills covering distilled spirits, wines, and beer received, or, at the option of the dealer, a book record containing all of the required information.

(b) *Records of sales of 20 wine gallons (75.7 liters) or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(Approved by the Office of Management and Budget under control number 1512–0354)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1345, 1348, 1395, 1413 (26 U.S.C. 5124, 5146, 5555, 5691))

[T.D. 7130, 36 FR 12853, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46861, Oct. 26, 1976. Redesignated and amended by T.D. ATF–116, 47 FR 51572, Nov. 16, 1982; T.D. ATF–172, 49 FR 14942, Apr. 16, 1984. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

FILES OF RECORDS AND REPORTS

### § 31.235 Filing.

The required records of receipt and disposition of all distilled spirits, as prescribed in §§ 31.225 and 31.226, may be filed in accordance with the wholesaler's regular accounting and recordkeeping systems. The required records shall consist of the dealer's own file copies of the receiving or shipping invoices.

(a) Dealers may file records of receipt and disposition in accordance with their own filing system as long as the filing system systematically and accurately accounts for all receipts and dispositions of distilled spirits.

(b) The required records of receipt and disposition will be filed not later than one business day following the date the transaction occurred.

(c) Supporting documents for receipts and dispositions, such as delivery receipts and bills of lading, may be filed in accordance with the wholesaler's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

### § 31.236 Place of filing.

Prescribed records of receipt and disposition and monthly summary reports required by § 31.230 will be maintained by transaction or reporting date, at the dealer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the dealer, if the alternative location does not cause undue inconvenience to appropriate TTB officers desiring to examine the files.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887 Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

PERIOD OF RETENTION

### § 31.237 Retention of records and files.

All records prescribed by this part, documents or copies of documents supporting these records, and file copies of reports submitted, shall be retained by the person required to keep the documents for a period of not less than three years, and during this period shall be available, during business hours, for inspection and copying by appropriate TTB officers. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555))

[T.D. ATF–50, 43 FR 20494, May 12, 1978. Redesignated by T.D. ATF–116, 47 FR 51573, Nov. 16, 1982, and further redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887 Apr. 15, 2005; T.D. TTB–44, 71 FR 16948, Apr. 4, 2006]

### § 31.238 Photographic copies of records.

(a) *General.* Dealers may record, copy, or reproduce records required by this part. Dealers may use any process which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the origninal record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the produced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original record 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 dealer, 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))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

**§§ 31.239–31.241 [Reserved]**

## Subpart P [Reserved]

## Subpart Q—Reuse and Possession of Used Liquor Bottles

### § 31.261 Refilling of liquor bottles.

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall (a) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of closing under the provisions of 26 U.S.C. Chapter 51, or (b) by the addition of any substance whatsoever to any liquor bottle, in any manner alter or increase any portion of the original contents contained in such bottle at the time of closing under the provisions of 26 U.S.C. Chapter 51.

(72 Stat. 1374; 26 U.S.C. 5301)

[T.D. 6954, 33 FR 6814, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55844, Sept. 28, 1979; T.D. ATF–206, 50 FR 23953, June 7, 1985. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.262 Possession of refilled liquor bottles.

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall:

(a) Possess any liquor bottle in which any distilled spirits have been placed in violation of the provisions of § 31.261, or

(b) Possess any liquor bottle, any portion of the contents of which has been altered or increased in violation of the provisions of § 31.261.

(72 Stat. 1374; 26 U.S.C. 5301)

[Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

### § 31.263 Possession of used liquor bottles.

The possession of used liquor bottles by any person other than the person who empties the contents thereof is prohibited except for the following:

(a) The owner or occupant of any premises on which such bottles have been lawfully emptied may assemble the same on such premises—

(1) For delivery to a bottler or importer on specific request of such bottler or importer;

(2) For destruction, either on the premises on which the bottles are emptied or elsewhere, including disposition for purposes which will result in the bottles being rendered unusable as bottles; or

(3) In the case of unusual or distinctive bottles, for disposition or sale as collectors' items or for other purposes not involving the packaging of any product for sale.

(b) Any person may possess, offer for sale, or sell unusual or distinctive bottles for purposes not involving the packaging of any product for sale.

(c) Any person may assemble used liquor bottles for the purpose of recycling or reclaiming the glass or other approved liquor bottle material.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43950, Oct. 5, 1982. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.264 Mixed cocktails.

A retail liquor dealer who mixes cocktails or compounds any alcoholic liquors in advance of sale, as provided in § 31.293, may not use liquor bottles in which distilled spirits have been previously packaged for the storage of the mixture pending sale.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–62, 44 FR 71694, Dec. 11, 1979. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

## Subpart R—Packaging of Alcohol for Industrial Uses

### § 31.271 Requirements and procedure.

On compliance with the provisions of Part 19 of this chapter applicable to

persons repackaging distilled spirits, a dealer in liquor engaged in the business of supplying alcohol for industrial use may obtain bulk alcohol on which the tax has been paid or determined and repackage the alcohol for sale for industrial use in containers of a capacity in excess of 1 wine gallon and not more than 5 wine gallons.

(a) *Qualification procedure.* Application for registration, Form 5110.41, and application for an operating permit, Form 5110.25, modified in accordance with instructions of the appropriate TTB officer, shall be executed and filed with the appropriate TTB officer. No alcohol shall be repackaged until the approved application for registration and the operating permit are received.

(b) *Operations.* Repackaging operations shall be conducted in accordance with the bottling and packaging requirements of Part 19 of this chapter. Packaging and labeling operations may be carried on without supervision of an TTB officer unless the appropriate TTB officer requires supervision.

(c) *Records.* The dealer shall keep records, daily, showing the bulk alcohol received, dumped for packaging, packaged, and disposed of, including the name and address of each consignor and consignee. The dealer shall prepare a monthly report on Form 5110.28 of bulk alcohol received, packaged, and disposed of. Reports on Form 5110.28 shall be submitted to the appropriate TTB officer not later than the 15th day of the month succeeding the period for which rendered. Records, documents, or copies of documents supporting the records, and copies of reports submitted to the appropriate TTB officer shall be filed and retained as prescribed in §§ 31.236 and 31.237.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1343, as amended, 1358, as amended, 1360, as amended (26 U.S.C. 5116, 5205, 5206))

[T.D. ATF–62, 44 FR 71694, Dec. 11, 1979, as amended by T.D. ATF–206, 50 FR 23953, June 7, 1985. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887 Apr. 15, 2005]

### § 31.272 Labeling.

Every dealer packaging alcohol for industrial use shall affix to each package filled a label bearing in conspicuous print the words ''Alcohol'' and ''For Industrial Use,'' the proof of the alcohol, the capacity of the container, and the packaging dealer's name and address. The dealer may incorporate in the label other appropriate statements; however, such statements shall not obscure or contradict the data required hereby to be shown on such labels.

(72 Stat. 1343, 1360; 26 U.S.C. 5116, 5206)

## Subpart S—Distilled Spirits for Export With Benefit of Drawback

### § 31.281 General.

A state, or political subdivision thereof, or a person holding a wholesale liquor dealer's basic permit issued under Part 1 of this chapter, may export bottled taxpaid distilled spirits with benefit of drawback to the extent provided in § 28.171 of this chapter. The marking of cases, preparation of notice of shipment on Form 5110.30, the removal and exportation of the distilled spirits, and the filing of claims by the processor of the spirits shall be in accordance with the applicable provisions of Parts 19 and 28 of this chapter.

[T.D. ATF–206, 50 FR 23953, June 7, 1985, as amended by T.S. 9112, 69 FR 3830, Jan. 27, 2004. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.283 Records.

The provisions of subpart O of this part regarding records and reports relating to liquors for domestic use are hereby extended to export transactions permitted under the provisions of this subpart.

[T.D. 7002, 34 FR 1592, Feb. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

## Subpart T—Miscellaneous

### § 31.291 Destruction of marks and brands on wine containers.

The dealer who empties any cask, barrel, keg, or other bulk container of wine shall scrape or obliterate from the empty container all marks, brands, tags, or labels placed thereon under the provisions of part 24 of this chapter as

evidence of the payment or determination of the tax on the wine removed therein from the bonded wine cellar.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–344, 58 FR 40355, July 28, 1993. Redesignated by T.D. TTB–25, 70 FR 19884, Apr. 15, 2005]

### § 31.292 Wine bottling.

Each person desiring to bottle, package, or repackage taxpaid wines shall, before carrying on such operations, apply and receive permission from the appropriate TTB officer, as required under part 24 of this chapter. The decanting of wine by caterers or other retail dealers for table or room service, banquets, and similar purposes shall not be considered as ''bottling,'' if the decanters are not furnished for the purpose of carrying wine away from the area where served.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5352))

[T.D. ATF–62, 44 FR 71694, Dec. 11, 1979, as amended by T.D. ATF–344, 58 FR 40355, July 28, 1993. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887 Apr. 15, 2005]

### § 31.293 Mixing cocktails in advance of sale.

A retail liquor dealer shall not mix cocktails, or compound any alcoholic liquors in advance of sale, except for the purpose of filling, for immediate consumption on the premises, orders received at the bar or in the expectation of the immediate receipt of orders. (For further provisions, see § 31.264.)

(Sec. 805, Pub. L. 96–39, 93 Stat. 277 (26 U.S.C. 5002))

[T.D. ATF–62, 44 FR 71694, Dec. 11, 1979. Redesignated and amended by T.D. TTB–25, 70 FR 19884, 19887, Apr. 15, 2005]

# FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected

# Material Approved for Incorporation by Reference

**(Revised as of April 1, 2008)**

The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR Part 51 the incorporation by reference of the following publications. This list contains only those incorporations by reference effective as of the revision date of this volume. Incorporations by reference found within a regulation are effective upon the effective date of that regulation. For more information on incorporation by reference, see the preliminary pages of this volume.

**27 CFR (PARTS 1 TO 39)**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU, DEPARTMENT OF THE TREASURY**

| | **27 CFR** |
|---|---|
| **American Society for Testing and Materials**<br>100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, Telephone (610) 832-9585, FAX (610) 832-9555 | |
| ASTM D 362–75 Standard Specification for Industrial Grade Toluene | 21.6; 21.132 |
| ASTM D 439–79 Standard Specifications for Automotive Gasoline | 21.6; 21.110 |
| ASTM E 100–72 (1978) Standard Specification for ASTM Hydrometers | 30.24 |
| **AOAC International (Association of Official Analytical Chemists)**<br>481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877-2407 Telephone: (301) 924–7077 | |
| AOAC Method 11.003–11.004, Color in White Wine, AOAC Official Methods of Analysis, 13th Ed., 1980. | 24.241 |
| **Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury**<br>Available From: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Telephone 202-512-1800 | |
| Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight, ATF Publication 5110.6 (November 1978). | 30.1(c) |

# Table of CFR Titles and Chapters

**(Revised as of April 1, 2008)**

## Title 1—General Provisions


I Administrative Committee of the Federal Register (Parts 1—49)

II Office of the Federal Register (Parts 50—299)

IV Miscellaneous Agencies (Parts 400—500)


## Title 2—Grants and Agreements


SUBTITLE A—OFFICE OF MANAGEMENT AND BUDGET GUIDANCE FOR GRANTS AND AGREEMENTS

I Office of Management and Budget Governmentwide Guidance for Grants and Agreements (Parts 100—199)

II Office of Management and Budget Circulars and Guidance (200—299)

SUBTITLE B—FEDERAL AGENCY REGULATIONS FOR GRANTS AND AGREEMENTS

III Department of Health and Human Services (Parts 300— 399)

VI Department of State (Parts 600—699)

VIII Department of Veterans Affairs (Parts 800—899)

IX Department of Energy (Parts 900—999)

XI Department of Defense (Parts 1100—1199)

XIV Department of the Interior (Parts 1400—1499)

XV Environmental Protection Agency (Parts 1500—1599)

XVIII National Aeronautics and Space Administration (Parts 1880—1899)

XXII Corporation for National and Community Service (Parts 2200—2299)

XXIII Social Security Administration (Parts 2300—2399)

XXIV Housing and Urban Development (Parts 2400—2499)

XXV National Science Foundation (Parts 2500—2599)

XXVI National Archives and Records Administration (Parts 2600—2699)

XXVII Small Business Administration (Parts 2700—2799)

XXVIII Department of Justice (Parts 2800—2899)

XXXII National Endowment for the Arts (Parts 3200—3299)

XXXIII National Endowment for the Humanities (Parts 3300—3399)

XXXV Export-Import Bank of the United States (Parts 3500—3599)

XXXVII Peace Corps (Parts 3700—3799)

## Title 3—The President


Chap.

I Executive Office of the President (Parts 100—199)


## Title 4—Accounts


I Government Accountability Office (Parts 1—99)


## Title 5—Administrative Personnel


I Office of Personnel Management (Parts 1—1199)
II Merit Systems Protection Board (Parts 1200—1299)
III Office of Management and Budget (Parts 1300—1399)
V The International Organizations Employees Loyalty Board (Parts 1500—1599)
VI Federal Retirement Thrift Investment Board (Parts 1600—1699)
VIII Office of Special Counsel (Parts 1800—1899)
IX Appalachian Regional Commission (Parts 1900—1999)
XI Armed Forces Retirement Home (Parts 2100—2199)
XIV Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)
XV Office of Administration, Executive Office of the President (Parts 2500—2599)
XVI Office of Government Ethics (Parts 2600—2699)
XXI Department of the Treasury (Parts 3100—3199)
XXII Federal Deposit Insurance Corporation (Parts 3200—3299)
XXIII Department of Energy (Parts 3300—3399)
XXIV Federal Energy Regulatory Commission (Parts 3400—3499)
XXV Department of the Interior (Parts 3500—3599)
XXVI Department of Defense (Parts 3600— 3699)
XXVIII Department of Justice (Parts 3800—3899)
XXIX Federal Communications Commission (Parts 3900—3999)
XXX Farm Credit System Insurance Corporation (Parts 4000—4099)
XXXI Farm Credit Administration (Parts 4100—4199)
XXXIII Overseas Private Investment Corporation (Parts 4300—4399)
XXXV Office of Personnel Management (Parts 4500—4599)
XL Interstate Commerce Commission (Parts 5000—5099)
XLI Commodity Futures Trading Commission (Parts 5100—5199)
XLII Department of Labor (Parts 5200—5299)
XLIII National Science Foundation (Parts 5300—5399)
XLV Department of Health and Human Services (Parts 5500—5599)
XLVI Postal Rate Commission (Parts 5600—5699)
XLVII Federal Trade Commission (Parts 5700—5799)
XLVIII Nuclear Regulatory Commission (Parts 5800—5899)
L Department of Transportation (Parts 6000—6099)
LII Export-Import Bank of the United States (Parts 6200—6299)
LIII Department of Education (Parts 6300—6399)

## Title 5—Administrative Personnel—Continued


Chap.

LIV Environmental Protection Agency (Parts 6400—6499)

LV National Endowment for the Arts (Parts 6500—6599)

LVI National Endowment for the Humanities (Parts 6600—6699)

LVII General Services Administration (Parts 6700—6799)

LVIII Board of Governors of the Federal Reserve System (Parts 6800—6899)

LIX National Aeronautics and Space Administration (Parts 6900—6999)

LX United States Postal Service (Parts 7000—7099)

LXI National Labor Relations Board (Parts 7100—7199)

LXII Equal Employment Opportunity Commission (Parts 7200—7299)

LXIII Inter-American Foundation (Parts 7300—7399)

LXIV Merit Systems Protection Board (Parts 7400—7499)

LXV Department of Housing and Urban Development (Parts 7500—7599)

LXVI National Archives and Records Administration (Parts 7600—7699)

LXVII Institute of Museum and Library Services (Parts 7700—7799)

LXIX Tennessee Valley Authority (Parts 7900—7999)

LXXI Consumer Product Safety Commission (Parts 8100—8199)

LXXIII Department of Agriculture (Parts 8300—8399)

LXXIV Federal Mine Safety and Health Review Commission (Parts 8400—8499)

LXXVI Federal Retirement Thrift Investment Board (Parts 8600—8699)

LXXVII Office of Management and Budget (Parts 8700—8799)

XCVII Department of Homeland Security Human Resources Management System (Department of Homeland Security—Office of Personnel Management) (Parts 9700—9799)

XCIX Department of Defense Human Resources Management and Labor Relations Systems (Department of Defense—Office of Personnel Management) (Parts 9900—9999)


## Title 6—Domestic Security


I Department of Homeland Security, Office of the Secretary (Parts 0—99)

X Privacy and Civil Liberties Oversight Board (Parts 1000—1099)


## Title 7—Agriculture


SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE (PARTS 0—26)

SUBTITLE B—REGULATIONS OF THE DEPARTMENT OF AGRICULTURE

I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

II Food and Nutrition Service, Department of Agriculture (Parts 210—299)

III Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

## Title 7—Agriculture—Continued


| Chap. | |
|---|---|
| IV | Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499) |
| V | Agricultural Research Service, Department of Agriculture (Parts 500—599) |
| VI | Natural Resources Conservation Service, Department of Agriculture (Parts 600—699) |
| VII | Farm Service Agency, Department of Agriculture (Parts 700—799) |
| VIII | Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899) |
| IX | Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999) |
| X | Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199) |
| XI | Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299) |
| XIV | Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499) |
| XV | Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599) |
| XVI | Rural Telephone Bank, Department of Agriculture (Parts 1600—1699) |
| XVII | Rural Utilities Service, Department of Agriculture (Parts 1700—1799) |
| XVIII | Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099) |
| XX | Local Television Loan Guarantee Board (Parts 2200—2299) |
| XXVI | Office of Inspector General, Department of Agriculture (Parts 2600—2699) |
| XXVII | Office of Information Resources Management, Department of Agriculture (Parts 2700—2799) |
| XXVIII | Office of Operations, Department of Agriculture (Parts 2800—2899) |
| XXIX | Office of Energy Policy and New Uses, Department of Agriculture (Parts 2900—2999) |
| XXX | Office of the Chief Financial Officer, Department of Agriculture (Parts 3000—3099) |
| XXXI | Office of Environmental Quality, Department of Agriculture (Parts 3100—3199) |
| XXXII | Office of Procurement and Property Management, Department of Agriculture (Parts 3200—3299) |
| XXXIII | Office of Transportation, Department of Agriculture (Parts 3300—3399) |
| XXXIV | Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499) |
| XXXV | Rural Housing Service, Department of Agriculture (Parts 3500—3599) |

## Title 7—Agriculture—Continued


| Chap. | |
|---|---|
| XXXVI | National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699) |
| XXXVII | Economic Research Service, Department of Agriculture (Parts 3700—3799) |
| XXXVIII | World Agricultural Outlook Board, Department of Agriculture (Parts 3800—3899) |
| XLI | [Reserved] |
| XLII | Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Parts 4200—4299) |


## Title 8—Aliens and Nationality


| | |
|---|---|
| I | Department of Homeland Security (Immigration and Naturalization) (Parts 1—499) |
| V | Executive Office for Immigration Review, Department of Justice (Parts 1000—1399) |


## Title 9—Animals and Animal Products


| | |
|---|---|
| I | Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199) |
| II | Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299) |
| III | Food Safety and Inspection Service, Department of Agriculture (Parts 300—599) |


## Title 10—Energy


| | |
|---|---|
| I | Nuclear Regulatory Commission (Parts 0—199) |
| II | Department of Energy (Parts 200—699) |
| III | Department of Energy (Parts 700—999) |
| X | Department of Energy (General Provisions) (Parts 1000—1099) |
| XIII | Nuclear Waste Technical Review Board (Parts 1303—1399) |
| XVII | Defense Nuclear Facilities Safety Board (Parts 1700—1799) |
| XVIII | Northeast Interstate Low-Level Radioactive Waste Commission (Parts 1800—1899) |


## Title 11—Federal Elections


| | |
|---|---|
| I | Federal Election Commission (Parts 1—9099) |


## Title 12—Banks and Banking


| | |
|---|---|
| I | Comptroller of the Currency, Department of the Treasury (Parts 1—199) |
| II | Federal Reserve System (Parts 200—299) |
| III | Federal Deposit Insurance Corporation (Parts 300—399) |
| IV | Export-Import Bank of the United States (Parts 400—499) |

## Title 12—Banks and Banking—Continued


Chap.

V Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

VI Farm Credit Administration (Parts 600—699)

VII National Credit Union Administration (Parts 700—799)

VIII Federal Financing Bank (Parts 800—899)

IX Federal Housing Finance Board (Parts 900—999)

XI Federal Financial Institutions Examination Council (Parts 1100—1199)

XIV Farm Credit System Insurance Corporation (Parts 1400—1499)

XV Department of the Treasury (Parts 1500—1599)

XVII Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

XVIII Community Development Financial Institutions Fund, Department of the Treasury (Parts 1800—1899)


## Title 13—Business Credit and Assistance


I Small Business Administration (Parts 1—199)

III Economic Development Administration, Department of Commerce (Parts 300—399)

IV Emergency Steel Guarantee Loan Board, Department of Commerce (Parts 400—499)

V Emergency Oil and Gas Guaranteed Loan Board, Department of Commerce (Parts 500—599)


## Title 14—Aeronautics and Space


I Federal Aviation Administration, Department of Transportation (Parts 1—199)

II Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

III Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

V National Aeronautics and Space Administration (Parts 1200—1299)

VI Air Transportation System Stabilization (Parts 1300—1399)


## Title 15—Commerce and Foreign Trade


SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE (PARTS 0—29)

SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE

I Bureau of the Census, Department of Commerce (Parts 30—199)

II National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

III International Trade Administration, Department of Commerce (Parts 300—399)

## Title 15—Commerce and Foreign Trade—Continued


Chap.

IV Foreign-Trade Zones Board, Department of Commerce (Parts 400—499)

VII Bureau of Industry and Security, Department of Commerce (Parts 700—799)

VIII Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

XI Technology Administration, Department of Commerce (Parts 1100—1199)

XIII East-West Foreign Trade Board (Parts 1300—1399)

XIV Minority Business Development Agency (Parts 1400—1499)

SUBTITLE C—REGULATIONS RELATING TO FOREIGN TRADE AGREEMENTS

XX Office of the United States Trade Representative (Parts 2000—2099)

SUBTITLE D—REGULATIONS RELATING TO TELECOMMUNICATIONS AND INFORMATION

XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)


## Title 16—Commercial Practices


I Federal Trade Commission (Parts 0—999)

II Consumer Product Safety Commission (Parts 1000—1799)


## Title 17—Commodity and Securities Exchanges


I Commodity Futures Trading Commission (Parts 1—199)

II Securities and Exchange Commission (Parts 200—399)

IV Department of the Treasury (Parts 400—499)


## Title 18—Conservation of Power and Water Resources


I Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

III Delaware River Basin Commission (Parts 400—499)

VI Water Resources Council (Parts 700—799)

VIII Susquehanna River Basin Commission (Parts 800—899)

XIII Tennessee Valley Authority (Parts 1300—1399)


## Title 19—Customs Duties


I Bureau of Customs and Border Protection, Department of Homeland Security; Department of the Treasury (Parts 0—199)

II United States International Trade Commission (Parts 200—299)

III International Trade Administration, Department of Commerce (Parts 300—399)

## Title 19—Customs Duties—Continued

Chap.

IV Bureau of Immigration and Customs Enforcement, Department of Homeland Security (Parts 400—599)

## Title 20—Employees' Benefits

I Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

II Railroad Retirement Board (Parts 200—399)

III Social Security Administration (Parts 400—499)

IV Employees Compensation Appeals Board, Department of Labor (Parts 500—599)

V Employment and Training Administration, Department of Labor (Parts 600—699)

VI Employment Standards Administration, Department of Labor (Parts 700—799)

VII Benefits Review Board, Department of Labor (Parts 800—899)

VIII Joint Board for the Enrollment of Actuaries (Parts 900—999)

IX Office of the Assistant Secretary for Veterans' Employment and Training Service, Department of Labor (Parts 1000—1099)

## Title 21—Food and Drugs

I Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

II Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

III Office of National Drug Control Policy (Parts 1400—1499)

## Title 22—Foreign Relations

I Department of State (Parts 1—199)

II Agency for International Development (Parts 200—299)

III Peace Corps (Parts 300—399)

IV International Joint Commission, United States and Canada (Parts 400—499)

V Broadcasting Board of Governors (Parts 500—599)

VII Overseas Private Investment Corporation (Parts 700—799)

IX Foreign Service Grievance Board (Parts 900—999)

X Inter-American Foundation (Parts 1000—1099)

XI International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100—1199)

XII United States International Development Cooperation Agency (Parts 1200—1299)

XIII Millenium Challenge Corporation (Parts 1300—1399)

XIV Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400—1499)

## Title 22—Foreign Relations—Continued


Chap.

XV African Development Foundation (Parts 1500—1599)

XVI Japan-United States Friendship Commission (Parts 1600—1699)

XVII United States Institute of Peace (Parts 1700—1799)


## Title 23—Highways


I Federal Highway Administration, Department of Transportation (Parts 1—999)

II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

III National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)


## Title 24—Housing and Urban Development


SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT

I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

II Office of Assistant Secretary for Housing-Federal HousingCommissioner, Department of Housing and Urban Development (Parts 200—299)

III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

IV Office of Housing and Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699) [Reserved]

VII Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

VIII Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs, Section 202 Direct Loan Program, Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons With Disabilities Program) (Parts 800—899)

IX Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

X Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

## Title 24—Housing and Urban Development—Continued

Chap.

XII Office of Inspector General, Department of Housing and Urban Development (Parts 2000—2099)

XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

XXV Neighborhood Reinvestment Corporation (Parts 4100—4199)

## Title 25—Indians

I Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

II Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)

III National Indian Gaming Commission, Department of the Interior (Parts 500—599)

IV Office of Navajo and Hopi Indian Relocation (Parts 700—799)

V Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Part 900)

VI Office of the Assistant Secretary-Indian Affairs, Department of the Interior (Parts 1000—1199)

VII Office of the Special Trustee for American Indians, Department of the Interior (Parts 1200—1299)

## Title 26—Internal Revenue

I Internal Revenue Service, Department of the Treasury (Parts 1—899)

## Title 27—Alcohol, Tobacco Products and Firearms

I Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury (Parts 1—399)

II Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice (Parts 400—699)

## Title 28—Judicial Administration

I Department of Justice (Parts 0—299)

III Federal Prison Industries, Inc., Department of Justice (Parts 300—399)

V Bureau of Prisons, Department of Justice (Parts 500—599)

VI Offices of Independent Counsel, Department of Justice (Parts 600—699)

VII Office of Independent Counsel (Parts 700—799)

VIII Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

IX National Crime Prevention and Privacy Compact Council (Parts 900—999)

## Title 28—Judicial Administration—Continued


Chap.

XI Department of Justice and Department of State (Parts 1100—1199)


## Title 29—Labor


SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO LABOR

I National Labor Relations Board (Parts 100—199)

II Office of Labor-Management Standards, Department of Labor (Parts 200—299)

III National Railroad Adjustment Board (Parts 300—399)

IV Office of Labor-Management Standards, Department of Labor (Parts 400—499)

V Wage and Hour Division, Department of Labor (Parts 500—899)

IX Construction Industry Collective Bargaining Commission (Parts 900—999)

X National Mediation Board (Parts 1200—1299)

XII Federal Mediation and Conciliation Service (Parts 1400—1499)

XIV Equal Employment Opportunity Commission (Parts 1600—1699)

XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

XX Occupational Safety and Health Review Commission (Parts 2200—2499)

XXV Employee Benefits Security Administration, Department of Labor (Parts 2500—2599)

XXVII Federal Mine Safety and Health Review Commission (Parts 2700—2799)

XL Pension Benefit Guaranty Corporation (Parts 4000—4999)


## Title 30—Mineral Resources


I Mine Safety and Health Administration, Department of Labor (Parts 1—199)

II Minerals Management Service, Department of the Interior (Parts 200—299)

III Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300—399)

IV Geological Survey, Department of the Interior (Parts 400—499)

VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)


## Title 31—Money and Finance: Treasury


SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY (PARTS 0—50)

SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE

I Monetary Offices, Department of the Treasury (Parts 51—199)

II Fiscal Service, Department of the Treasury (Parts 200—399)

## Title 31—Money and Finance: Treasury—Continued


Chap.

IV Secret Service, Department of the Treasury (Parts 400—499)

V Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)

VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700—799)

VIII Office of International Investment, Department of the Treasury (Parts 800—899)

IX Federal Claims Collection Standards (Department of the Treasury—Department of Justice) (Parts 900—999)


## Title 32—National Defense


SUBTITLE A—DEPARTMENT OF DEFENSE

I Office of the Secretary of Defense (Parts 1—399)

V Department of the Army (Parts 400—699)

VI Department of the Navy (Parts 700—799)

VII Department of the Air Force (Parts 800—1099)

SUBTITLE B—OTHER REGULATIONS RELATING TO NATIONAL DEFENSE

XII Defense Logistics Agency (Parts 1200—1299)

XVI Selective Service System (Parts 1600—1699)

XVII Office of the Director of National Intelligence (Parts 1700—1799)

XVIII National Counterintelligence Center (Parts 1800—1899)

XIX Central Intelligence Agency (Parts 1900—1999)

XX Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)

XXI National Security Council (Parts 2100—2199)

XXIV Office of Science and Technology Policy (Parts 2400—2499)

XXVII Office for Micronesian Status Negotiations (Parts 2700—2799)

XXVIII Office of the Vice President of the United States (Parts 2800—2899)


## Title 33—Navigation and Navigable Waters


I Coast Guard, Department of Homeland Security (Parts 1—199)

II Corps of Engineers, Department of the Army (Parts 200—399)

IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)


## Title 34—Education


SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION (PARTS 1—99)

SUBTITLE B—REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION

I Office for Civil Rights, Department of Education (Parts 100—199)

## Title 34—Education—Continued


Chap.

II Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

IV Office of Vocational and Adult Education, Department of Education (Parts 400—499)

V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)

VI Office of Postsecondary Education, Department of Education (Parts 600—699)

VII Office of Educational Research and Improvmeent, Department of Education [Reserved]

XI National Institute for Literacy (Parts 1100—1199)

SUBTITLE C—REGULATIONS RELATING TO EDUCATION

XII National Council on Disability (Parts 1200—1299)


## Title 35 [Reserved]

## Title 36—Parks, Forests, and Public Property


I National Park Service, Department of the Interior (Parts 1—199)

II Forest Service, Department of Agriculture (Parts 200—299)

III Corps of Engineers, Department of the Army (Parts 300—399)

IV American Battle Monuments Commission (Parts 400—499)

V Smithsonian Institution (Parts 500—599)

VI [Reserved]

VII Library of Congress (Parts 700—799)

VIII Advisory Council on Historic Preservation (Parts 800—899)

IX Pennsylvania Avenue Development Corporation (Parts 900—999)

X Presidio Trust (Parts 1000—1099)

XI Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

XII National Archives and Records Administration (Parts 1200—1299)

XV Oklahoma City National Memorial Trust (Parts 1500—1599)

XVI Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Parts 1600—1699)


## Title 37—Patents, Trademarks, and Copyrights


I United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

II Copyright Office, Library of Congress (Parts 200—299)

III Copyright Royalty Board, Library of Congress (Parts 301—399)

IV Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)

V Under Secretary for Technology, Department of Commerce (Parts 500—599)

## Title 38—Pensions, Bonuses, and Veterans' Relief


Chap.

I Department of Veterans Affairs (Parts 0—99)


## Title 39—Postal Service


I United States Postal Service (Parts 1—999)

III Postal Regulatory Commission (Parts 3000—3099)


## Title 40—Protection of Environment


I Environmental Protection Agency (Parts 1—1099)

IV Environmental Protection Agency and Department of Justice (Parts 1400—1499)

V Council on Environmental Quality (Parts 1500—1599)

VI Chemical Safety and Hazard Investigation Board (Parts 1600—1699)

VII Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces (Parts 1700—1799)


## Title 41—Public Contracts and Property Management


SUBTITLE B—OTHER PROVISIONS RELATING TO PUBLIC CONTRACTS

50 Public Contracts, Department of Labor (Parts 50–1—50–999)

51 Committee for Purchase From People Who Are Blind or Severely Disabled (Parts 51–1—51–99)

60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60–1—60–999)

61 Office of the Assistant Secretary for Veterans' Employment and Training Service, Department of Labor (Parts 61–1—61–999)

62—100 [Reserved]

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM

101 Federal Property Management Regulations (Parts 101–1—101–99)

102 Federal Management Regulation (Parts 102–1—102–299)

103—104 [Reserved]

105 General Services Administration (Parts 105–1—105–999)

109 Department of Energy Property Management Regulations (Parts 109–1—109–99)

114 Department of the Interior (Parts 114–1—114–99)

115 Environmental Protection Agency (Parts 115–1—115–99)

128 Department of Justice (Parts 128–1—128–99)

129—200 [Reserved]

SUBTITLE D—OTHER PROVISIONS RELATING TO PROPERTY MANAGEMENT [RESERVED]

SUBTITLE E—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATIONS SYSTEM [RESERVED]

SUBTITLE F—FEDERAL TRAVEL REGULATION SYSTEM

300 General (Parts 300–1—300–99)

## Title 41—Public Contracts and Property Management—Continued

Chap.

301 Temporary Duty (TDY) Travel Allowances (Parts 301–1—301–99)

302 Relocation Allowances (Parts 302–1—302–99)

303 Payment of Expenses Connected with the Death of Certain Employees (Part 303–1—303–99)

304 Payment of Travel Expenses from a Non-Federal Source (Parts 304–1—304–99)

## Title 42—Public Health

I Public Health Service, Department of Health and Human Services (Parts 1—199)

IV Centers for Medicare & Medicaid Services, Department of Health and Human Services (Parts 400—499)

V Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

## Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR (PARTS 1—199)

SUBTITLE B—REGULATIONS RELATING TO PUBLIC LANDS

I Bureau of Reclamation, Department of the Interior (Parts 200—499)

II Bureau of Land Management, Department of the Interior (Parts 1000—9999)

III Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10010)

## Title 44—Emergency Management and Assistance

I Federal Emergency Management Agency, Department of Homeland Security (Parts 0—399)

IV Department of Commerce and Department of Transportation (Parts 400—499)

## Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES (PARTS 1—199)

SUBTITLE B—REGULATIONS RELATING TO PUBLIC WELFARE

II Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

III Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

IV Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services (Parts 400—499)

## Title 45—Public Welfare—Continued


Chap.

V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)

VI National Science Foundation (Parts 600—699)

VII Commission on Civil Rights (Parts 700—799)

VIII Office of Personnel Management (Parts 800—899)

X Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)

XI National Foundation on the Arts and the Humanities (Parts 1100—1199)

XII Corporation for National and Community Service (Parts 1200—1299)

XIII Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

XVI Legal Services Corporation (Parts 1600—1699)

XVII National Commission on Libraries and Information Science (Parts 1700—1799)

XVIII Harry S. Truman Scholarship Foundation (Parts 1800—1899)

XXI Commission on Fine Arts (Parts 2100—2199)

XXIII Arctic Research Commission (Part 2301)

XXIV James Madison Memorial Fellowship Foundation (Parts 2400—2499)

XXV Corporation for National and Community Service (Parts 2500—2599)


## Title 46—Shipping


I Coast Guard, Department of Homeland Security (Parts 1—199)

II Maritime Administration, Department of Transportation (Parts 200—399)

III Coast Guard (Great Lakes Pilotage), Department of Homeland Security (Parts 400—499)

IV Federal Maritime Commission (Parts 500—599)


## Title 47—Telecommunication


I Federal Communications Commission (Parts 0—199)

II Office of Science and Technology Policy and National Security Council (Parts 200—299)

III National Telecommunications and Information Administration, Department of Commerce (Parts 300—399)


## Title 48—Federal Acquisition Regulations System


1 Federal Acquisition Regulation (Parts 1—99)

2 Defense Acquisition Regulations System, Department of Defense (Parts 200—299)

3 Department of Health and Human Services (Parts 300—399)

## Title 48—Federal Acquisition Regulations System—Continued

Chap.


4 Department of Agriculture (Parts 400—499)

5 General Services Administration (Parts 500—599)

6 Department of State (Parts 600—699)

7 Agency for International Development (Parts 700—799)

8 Department of Veterans Affairs (Parts 800—899)

9 Department of Energy (Parts 900—999)

10 Department of the Treasury (Parts 1000—1099)

12 Department of Transportation (Parts 1200—1299)

13 Department of Commerce (Parts 1300—1399)

14 Department of the Interior (Parts 1400—1499)

15 Environmental Protection Agency (Parts 1500—1599)

16 Office of Personnel Management, Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

17 Office of Personnel Management (Parts 1700—1799)

18 National Aeronautics and Space Administration (Parts 1800—1899)

19 Broadcasting Board of Governors (Parts 1900—1999)

20 Nuclear Regulatory Commission (Parts 2000—2099)

21 Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)

23 Social Security Administration (Parts 2300—2399)

24 Department of Housing and Urban Development (Parts 2400—2499)

25 National Science Foundation (Parts 2500—2599)

28 Department of Justice (Parts 2800—2899)

29 Department of Labor (Parts 2900—2999)

30 Department of Homeland Security, Homeland Security Acquisition Regulation (HSAR) (Parts 3000—3099)

34 Department of Education Acquisition Regulation (Parts 3400—3499)

51 Department of the Army Acquisition Regulations (Parts 5100—5199)

52 Department of the Navy Acquisition Regulations (Parts 5200—5299)

53 Department of the Air Force Federal Acquisition Regulation Supplement [Reserved]

54 Defense Logistics Agency, Department of Defense (Parts 5400—5499)

57 African Development Foundation (Parts 5700—5799)

61 General Services Administration Board of Contract Appeals (Parts 6100—6199)

63 Department of Transportation Board of Contract Appeals (Parts 6300—6399)

99 Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

## Title 49—Transportation


Chap.

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION (PARTS 1—99)

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

I Pipeline and Hazardous Materials Safety Administration, Department of Transportation (Parts 100—199)

II Federal Railroad Administration, Department of Transportation (Parts 200—299)

III Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

IV Coast Guard, Department of Homeland Security (Parts 400—499)

V National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

VI Federal Transit Administration, Department of Transportation (Parts 600—699)

VII National Railroad Passenger Corporation (AMTRAK) (Parts 700—799)

VIII National Transportation Safety Board (Parts 800—999)

X Surface Transportation Board, Department of Transportation (Parts 1000—1399)

XI Research and Innovative Technology Administration, Department of Transportation [Reserved]

XII Transportation Security Administration, Department of Homeland Security (Parts 1500—1699)


## Title 50—Wildlife and Fisheries


I United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

III International Fishing and Related Activities (Parts 300—399)

IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400—499)

V Marine Mammal Commission (Parts 500—599)

VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)


## CFR Index and Finding Aids


Subject/Agency Index

List of Agency Prepared Indexes

Parallel Tables of Statutory Authorities and Rules

List of CFR Titles, Chapters, Subchapters, and Parts

Alphabetical List of Agencies Appearing in the CFR

# Alphabetical List of Agencies Appearing in the CFR

**(Revised as of April 1, 2008)**

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Administrative Committee of the Federal Register | 1, I |
| Advanced Research Projects Agency | 32, I |
| Advisory Council on Historic Preservation | 36, VIII |
| African Development Foundation | 22, XV |
| Federal Acquisition Regulation | 48, 57 |
| Agency for International Development | 22, II |
| Federal Acquisition Regulation | 48, 7 |
| Agricultural Marketing Service | 7, I, IX, X, XI |
| Agricultural Research Service | 7, V |
| Agriculture Department | 5, LXXIII |
| Agricultural Marketing Service | 7, I, IX, X, XI |
| Agricultural Research Service | 7, V |
| Animal and Plant Health Inspection Service | 7, III; 9, I |
| Chief Financial Officer, Office of | 7, XXX |
| Commodity Credit Corporation | 7, XIV |
| Cooperative State Research, Education, and Extension Service | 7, XXXIV |
| Economic Research Service | 7, XXXVII |
| Energy, Office of | 2, IX; 7, XXIX |
| Environmental Quality, Office of | 7, XXXI |
| Farm Service Agency | 7, VII, XVIII |
| Federal Acquisition Regulation | 48, 4 |
| Federal Crop Insurance Corporation | 7, IV |
| Food and Nutrition Service | 7, II |
| Food Safety and Inspection Service | 9, III |
| Foreign Agricultural Service | 7, XV |
| Forest Service | 36, II |
| Grain Inspection, Packers and Stockyards Administration | 7, VIII; 9, II |
| Information Resources Management, Office of | 7, XXVII |
| Inspector General, Office of | 7, XXVI |
| National Agricultural Library | 7, XLI |
| National Agricultural Statistics Service | 7, XXXVI |
| Natural Resources Conservation Service | 7, VI |
| Operations, Office of | 7, XXVIII |
| Procurement and Property Management, Office of | 7, XXXII |
| Rural Business-Cooperative Service | 7, XVIII, XLII |
| Rural Development Administration | 7, XLII |
| Rural Housing Service | 7, XVIII, XXXV |
| Rural Telephone Bank | 7, XVI |
| Rural Utilities Service | 7, XVII, XVIII, XLII |
| Secretary of Agriculture, Office of | 7, Subtitle A |
| Transportation, Office of | 7, XXXIII |
| World Agricultural Outlook Board | 7, XXXVIII |
| Air Force Department | 32, VII |
| Federal Acquisition Regulation Supplement | 48, 53 |
| Air Transportation Stabilization Board | 14, VI |
| Alcohol and Tobacco Tax and Trade Bureau | 27, I |
| Alcohol, Tobacco, Firearms, and Explosives, Bureau of | 27, II |
| AMTRAK | 49, VII |
| American Battle Monuments Commission | 36, IV |
| American Indians, Office of the Special Trustee | 25, VII |
| Animal and Plant Health Inspection Service | 7, III; 9, I |
| Appalachian Regional Commission | 5, IX |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Architectural and Transportation Barriers Compliance Board | 36, XI |
| Arctic Research Commission | 45, XXIII |
| Armed Forces Retirement Home | 5, XI |
| Army Department | 32, V |
| Engineers, Corps of | 33, II; 36, III |
| Federal Acquisition Regulation | 48, 51 |
| Benefits Review Board | 20, VII |
| Bilingual Education and Minority Languages Affairs, Office of | 34, V |
| Blind or Severely Disabled, Committee for Purchase From People Who Are | 41, 51 |
| Broadcasting Board of Governors | 22, V |
| Federal Acquisition Regulation | 48, 19 |
| Census Bureau | 15, I |
| Centers for Medicare & Medicaid Services | 42, IV |
| Central Intelligence Agency | 32, XIX |
| Chief Financial Officer, Office of | 7, XXX |
| Child Support Enforcement, Office of | 45, III |
| Children and Families, Administration for | 45, II, III, IV, X |
| Civil Rights, Commission on | 45, VII |
| Civil Rights, Office for | 34, I |
| Coast Guard | 33, I; 46, I; 49, IV |
| Coast Guard (Great Lakes Pilotage) | 46, III |
| Commerce Department | 44, IV |
| Census Bureau | 15, I |
| Economic Affairs, Under Secretary | 37, V |
| Economic Analysis, Bureau of | 15, VIII |
| Economic Development Administration | 13, III |
| Emergency Management and Assistance | 44, IV |
| Federal Acquisition Regulation | 48, 13 |
| Fishery Conservation and Management | 50, VI |
| Foreign-Trade Zones Board | 15, IV |
| Industry and Security, Bureau of | 15, VII |
| International Trade Administration | 15, III; 19, III |
| National Institute of Standards and Technology | 15, II |
| National Marine Fisheries Service | 50, II, IV, VI |
| National Oceanic and Atmospheric Administration | 15, IX; 50, II, III, IV, VI |
| National Telecommunications and Information Administration | 15, XXIII; 47, III |
| National Weather Service | 15, IX |
| Patent and Trademark Office, United States | 37, I |
| Productivity, Technology and Innovation, Assistant Secretary for | 37, IV |
| Secretary of Commerce, Office of | 15, Subtitle A |
| Technology, Under Secretary for | 37, V |
| Technology Administration | 15, XI |
| Technology Policy, Assistant Secretary for | 37, IV |
| Commercial Space Transportation | 14, III |
| Commodity Credit Corporation | 7, XIV |
| Commodity Futures Trading Commission | 5, XLI; 17, I |
| Community Planning and Development, Office of Assistant Secretary for | 24, V, VI |
| Community Services, Office of | 45, X |
| Comptroller of the Currency | 12, I |
| Construction Industry Collective Bargaining Commission | 29, IX |
| Consumer Product Safety Commission | 5, LXXI; 16, II |
| Cooperative State Research, Education, and Extension Service | 7, XXXIV |
| Copyright Office | 37, II |
| Copyright Royalty Board | 37, III |
| Corporation for National and Community Service | 2, XXII; 45, XII, XXV |
| Cost Accounting Standards Board | 48, 99 |
| Council on Environmental Quality | 40, V |
| Court Services and Offender Supervision Agency for the District of Columbia | 28, VIII |
| Customs and Border Protection Bureau | 19, I |
| Defense Contract Audit Agency | 32, I |
| Defense Department | 5, XXVI; 32, Subtitle A; 40, VII |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Advanced Research Projects Agency | 32, I |
| Air Force Department | 32, VII |
| Army Department | 32, V; 33, II; 36, III, 48, 51 |
| Defense Acquisition Regulations System | 48, II |
| Defense Intelligence Agency | 32, I |
| Defense Logistics Agency | 32, I, XII; 48, 54 |
| Engineers, Corps of | 33, II; 36, III |
| National Imagery and Mapping Agency | 32, I |
| Navy Department | 32, VI; 48, 52 |
| Secretary of Defense, Office of | 2, XI; 32, I |
| Defense Contract Audit Agency | 32, I |
| Defense Intelligence Agency | 32, I |
| Defense Logistics Agency | 32, XII; 48, 54 |
| Defense Nuclear Facilities Safety Board | 10, XVII |
| Delaware River Basin Commission | 18, III |
| District of Columbia, Court Services and Offender Supervision Agency for the | 28, VIII |
| Drug Enforcement Administration | 21, II |
| East-West Foreign Trade Board | 15, XIII |
| Economic Affairs, Under Secretary | 37, V |
| Economic Analysis, Bureau of | 15, VIII |
| Economic Development Administration | 13, III |
| Economic Research Service | 7, XXXVII |
| Education, Department of | 5, LIII |
| Bilingual Education and Minority Languages Affairs, Office of | 34, V |
| Civil Rights, Office for | 34, I |
| Educational Research and Improvement, Office of | 34, VII |
| Elementary and Secondary Education, Office of | 34, II |
| Federal Acquisition Regulation | 48, 34 |
| Postsecondary Education, Office of | 34, VI |
| Secretary of Education, Office of | 34, Subtitle A |
| Special Education and Rehabilitative Services, Office of | 34, III |
| Vocational and Adult Education, Office of | 34, IV |
| Educational Research and Improvement, Office of | 34, VII |
| Elementary and Secondary Education, Office of | 34, II |
| Emergency Oil and Gas Guaranteed Loan Board | 13, V |
| Emergency Steel Guarantee Loan Board | 13, IV |
| Employee Benefits Security Administration | 29, XXV |
| Employees' Compensation Appeals Board | 20, IV |
| Employees Loyalty Board | 5, V |
| Employment and Training Administration | 20, V |
| Employment Standards Administration | 20, VI |
| Endangered Species Committee | 50, IV |
| Energy, Department of | 5, XXIII; 10, II, III, X |
| Federal Acquisition Regulation | 48, 9 |
| Federal Energy Regulatory Commission | 5, XXIV; 18, I |
| Property Management Regulations | 41, 109 |
| Energy, Office of | 7, XXIX |
| Engineers, Corps of | 33, II; 36, III |
| Engraving and Printing, Bureau of | 31, VI |
| Environmental Protection Agency | 2, XV; 5, LIV; 40, I, IV, VII |
| Federal Acquisition Regulation | 48, 15 |
| Property Management Regulations | 41, 115 |
| Environmental Quality, Office of | 7, XXXI |
| Equal Employment Opportunity Commission | 5, LXII; 29, XIV |
| Equal Opportunity, Office of Assistant Secretary for | 24, I |
| Executive Office of the President | 3, I |
| Administration, Office of | 5, XV |
| Environmental Quality, Council on | 40, V |
| Management and Budget, Office of | 5, III, LXXVII; 14, VI; 48, 99 |
| National Drug Control Policy, Office of | 21, III |
| National Security Council | 32, XXI; 47, 2 |
| Presidential Documents | 3 |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Science and Technology Policy, Office of | 32, XXIV; 47, II |
| Trade Representative, Office of the United States | 15, XX |
| Export-Import Bank of the United States | 2, XXXV; 5, LII; 12, IV |
| Family Assistance, Office of | 45, II |
| Farm Credit Administration | 5, XXXI; 12, VI |
| Farm Credit System Insurance Corporation | 5, XXX; 12, XIV |
| Farm Service Agency | 7, VII, XVIII |
| Federal Acquisition Regulation | 48, 1 |
| Federal Aviation Administration | 14, I |
| Commercial Space Transportation | 14, III |
| Federal Claims Collection Standards | 31, IX |
| Federal Communications Commission | 5, XXIX; 47, I |
| Federal Contract Compliance Programs, Office of | 41, 60 |
| Federal Crop Insurance Corporation | 7, IV |
| Federal Deposit Insurance Corporation | 5, XXII; 12, III |
| Federal Election Commission | 11, I |
| Federal Emergency Management Agency | 44, I |
| Federal Employees Group Life Insurance Federal Acquisition Regulation | 48, 21 |
| Federal Employees Health Benefits Acquisition Regulation | 48, 16 |
| Federal Energy Regulatory Commission | 5, XXIV; 18, I |
| Federal Financial Institutions Examination Council | 12, XI |
| Federal Financing Bank | 12, VIII |
| Federal Highway Administration | 23, I, II |
| Federal Home Loan Mortgage Corporation | 1, IV |
| Federal Housing Enterprise Oversight Office | 12, XVII |
| Federal Housing Finance Board | 12, IX |
| Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority | 5, XIV; 22, XIV |
| Federal Law Enforcement Training Center | 31, VII |
| Federal Management Regulation | 41, 102 |
| Federal Maritime Commission | 46, IV |
| Federal Mediation and Conciliation Service | 29, XII |
| Federal Mine Safety and Health Review Commission | 5, LXXIV; 29, XXVII |
| Federal Motor Carrier Safety Administration | 49, III |
| Federal Prison Industries, Inc. | 28, III |
| Federal Procurement Policy Office | 48, 99 |
| Federal Property Management Regulations | 41, 101 |
| Federal Railroad Administration | 49, II |
| Federal Register, Administrative Committee of | 1, I |
| Federal Register, Office of | 1, II |
| Federal Reserve System | 12, II |
| Board of Governors | 5, LVIII |
| Federal Retirement Thrift Investment Board | 5, VI, LXXVI |
| Federal Service Impasses Panel | 5, XIV |
| Federal Trade Commission | 5, XLVII; 16, I |
| Federal Transit Administration | 49, VI |
| Federal Travel Regulation System | 41, Subtitle F |
| Fine Arts, Commission on | 45, XXI |
| Fiscal Service | 31, II |
| Fish and Wildlife Service, United States | 50, I, IV |
| Fishery Conservation and Management | 50, VI |
| Food and Drug Administration | 21, I |
| Food and Nutrition Service | 7, II |
| Food Safety and Inspection Service | 9, III |
| Foreign Agricultural Service | 7, XV |
| Foreign Assets Control, Office of | 31, V |
| Foreign Claims Settlement Commission of the United States | 45, V |
| Foreign Service Grievance Board | 22, IX |
| Foreign Service Impasse Disputes Panel | 22, XIV |
| Foreign Service Labor Relations Board | 22, XIV |
| Foreign-Trade Zones Board | 15, IV |
| Forest Service | 36, II |
| General Services Administration | 5, LVII; 41, 105 |
| Contract Appeals, Board of | 48, 61 |
| Federal Acquisition Regulation | 48, 5 |
| Federal Management Regulation | 41, 102 |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Federal Property Management Regulations | 41, 101 |
| Federal Travel Regulation System | 41, Subtitle F |
| General | 41, 300 |
| Payment From a Non-Federal Source for Travel Expenses | 41, 304 |
| Payment of Expenses Connected With the Death of Certain Employees | 41, 303 |
| Relocation Allowances | 41, 302 |
| Temporary Duty (TDY) Travel Allowances | 41, 301 |
| Geological Survey | 30, IV |
| Government Accountability Office | 4, I |
| Government Ethics, Office of | 5, XVI |
| Government National Mortgage Association | 24, III |
| Grain Inspection, Packers and Stockyards Administration | 7, VIII; 9, II |
| Harry S. Truman Scholarship Foundation | 45, XVIII |
| Health and Human Services, Department of | 2, III; 5, XLV; 45, Subtitle A, |
| Centers for Medicare & Medicaid Services | 42, IV |
| Child Support Enforcement, Office of | 45, III |
| Children and Families, Administration for | 45, II, III, IV, X |
| Community Services, Office of | 45, X |
| Family Assistance, Office of | 45, II |
| Federal Acquisition Regulation | 48, 3 |
| Food and Drug Administration | 21, I |
| Human Development Services, Office of | 45, XIII |
| Indian Health Service | 25, V |
| Inspector General (Health Care), Office of | 42, V |
| Public Health Service | 42, I |
| Refugee Resettlement, Office of | 45, IV |
| Homeland Security, Department of | 6, I |
| Coast Guard | 33, I; 46, I; 49, IV |
| Coast Guard (Great Lakes Pilotage) | 46, III |
| Customs and Border Protection Bureau | 19, I |
| Federal Emergency Management Agency | 44, I |
| Immigration and Customs Enforcement Bureau | 19, IV |
| Immigration and Naturalization | 8, I |
| Transportation Security Administration | 49, XII |
| Housing and Urban Development, Department of | 5, LXV; 24, Subtitle B, 2, XXIV; 2424 |
| Community Planning and Development, Office of Assistant Secretary for | 24, V, VI |
| Equal Opportunity, Office of Assistant Secretary for | 24, I |
| Federal Acquisition Regulation | 48, 24 |
| Federal Housing Enterprise Oversight, Office of | 12, XVII |
| Government National Mortgage Association | 24, III |
| Housing—Federal Housing Commissioner, Office of Assistant Secretary for | 24, II, VIII, X, XX |
| Housing, Office of, and Multifamily Housing Assistance Restructuring, Office of | 24, IV |
| Inspector General, Office of | 24, XII |
| Public and Indian Housing, Office of Assistant Secretary for | 24, IX |
| Secretary, Office of | 24, Subtitle A, VII |
| Housing—Federal Housing Commissioner, Office of Assistant Secretary for | 24, II, VIII, X, XX |
| Housing, Office of, and Multifamily Housing Assistance Restructuring, Office of | 24, IV |
| Human Development Services, Office of | 45, XIII |
| Immigration and Customs Enforcement Bureau | 19, IV |
| Immigration and Naturalization | 8, I |
| Immigration Review, Executive Office for | 8, V |
| Independent Counsel, Office of | 28, VII |
| Indian Affairs, Bureau of | 25, I, V |
| Indian Affairs, Office of the Assistant Secretary | 25, VI |
| Indian Arts and Crafts Board | 25, II |
| Indian Health Service | 25, V |
| Industry and Security, Bureau of | 15, VII |
| Information Resources Management, Office of | 7, XXVII |
| Information Security Oversight Office, National Archives and Records Administration | 32, XX |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Inspector General | |
| Agriculture Department | 7, XXVI |
| Health and Human Services Department | 42, V |
| Housing and Urban Development Department | 24, XII |
| Institute of Peace, United States | 22, XVII |
| Inter-American Foundation | 5, LXIII; 22, X |
| Interior Department | |
| American Indians, Office of the Special Trustee | 25, VII |
| Endangered Species Committee | 50, IV |
| Federal Acquisition Regulation | 48, 14 |
| Federal Property Management Regulations System | 41, 114 |
| Fish and Wildlife Service, United States | 50, I, IV |
| Geological Survey | 30, IV |
| Indian Affairs, Bureau of | 25, I, V |
| Indian Affairs, Office of the Assistant Secretary | 25, VI |
| Indian Arts and Crafts Board | 25, II |
| Land Management, Bureau of | 43, II |
| Minerals Management Service | 30, II |
| National Indian Gaming Commission | 25, III |
| National Park Service | 36, I |
| Reclamation, Bureau of | 43, I |
| Secretary of the Interior, Office of | 2, XIV; 43, Subtitle A |
| Surface Mining and Reclamation Appeals, Board of | 30, III |
| Surface Mining Reclamation and Enforcement, Office of | 30, VII |
| Internal Revenue Service | 26, I |
| International Boundary and Water Commission, United States and Mexico, United States Section | 22, XI |
| International Development, United States Agency for | 22, II |
| Federal Acquisition Regulation | 48, 7 |
| International Development Cooperation Agency, United States | 22, XII |
| International Fishing and Related Activities | 50, III |
| International Investment, Office of | 31, VIII |
| International Joint Commission, United States and Canada | 22, IV |
| International Organizations Employees Loyalty Board | 5, V |
| International Trade Administration | 15, III; 19, III |
| International Trade Commission, United States | 19, II |
| Interstate Commerce Commission | 5, XL |
| James Madison Memorial Fellowship Foundation | 45, XXIV |
| Japan–United States Friendship Commission | 22, XVI |
| Joint Board for the Enrollment of Actuaries | 20, VIII |
| Justice Department | 2, XXVII; 5, XXVIII; 28, I, XI; 40, IV |
| Alcohol, Tobacco, Firearms, and Explosives, Bureau of | 27, II |
| Drug Enforcement Administration | 21, II |
| Federal Acquisition Regulation | 48, 28 |
| Federal Claims Collection Standards | 31, IX |
| Federal Prison Industries, Inc. | 28, III |
| Foreign Claims Settlement Commission of the United States | 45, V |
| Immigration Review, Executive Office for | 8, V |
| Offices of Independent Counsel | 28, VI |
| Prisons, Bureau of | 28, V |
| Property Management Regulations | 41, 128 |
| Labor Department | 5, XLII |
| Benefits Review Board | 20, VII |
| Employee Benefits Security Administration | 29, XXV |
| Employees' Compensation Appeals Board | 20, IV |
| Employment and Training Administration | 20, V |
| Employment Standards Administration | 20, VI |
| Federal Acquisition Regulation | 48, 29 |
| Federal Contract Compliance Programs, Office of | 41, 60 |
| Federal Procurement Regulations System | 41, 50 |
| Labor-Management Standards, Office of | 29, II, IV |
| Mine Safety and Health Administration | 30, I |
| Occupational Safety and Health Administration | 29, XVII |
| Public Contracts | 41, 50 |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Secretary of Labor, Office of | 29, Subtitle A |
| Veterans' Employment and Training Service, Office of the Assistant Secretary for | 41, 61; 20, IX |
| Wage and Hour Division | 29, V |
| Workers' Compensation Programs, Office of | 20, I |
| Labor-Management Standards, Office of | 29, II, IV |
| Land Management, Bureau of | 43, II |
| Legal Services Corporation | 45, XVI |
| Library of Congress | 36, VII |
| Copyright Office | 37, II |
| Copyright Royalty Board | 37, III |
| Local Television Loan Guarantee Board | 7, XX |
| Management and Budget, Office of | 5, III, LXXVII; 14, VI; 48, 99 |
| Marine Mammal Commission | 50, V |
| Maritime Administration | 46, II |
| Merit Systems Protection Board | 5, II, LXIV |
| Micronesian Status Negotiations, Office for | 32, XXVII |
| Millenium Challenge Corporation | 22, XIII |
| Mine Safety and Health Administration | 30, I |
| Minerals Management Service | 30, II |
| Minority Business Development Agency | 15, XIV |
| Miscellaneous Agencies | 1, IV |
| Monetary Offices | 31, I |
| Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation | 36, XVI |
| National Aeronautics and Space Administration | 2, XVIII; 5, LIX; 14, V |
| Federal Acquisition Regulation | 48, 18 |
| National Agricultural Library | 7, XLI |
| National Agricultural Statistics Service | 7, XXXVI |
| National and Community Service, Corporation for | 45, XII, XXV |
| National Archives and Records Administration | 2, XXVI; 5, LXVI; 36, XII |
| Information Security Oversight Office | 32, XX |
| National Capital Planning Commission | 1, IV |
| National Commission for Employment Policy | 1, IV |
| National Commission on Libraries and Information Science | 45, XVII |
| National Council on Disability | 34, XII |
| National Counterintelligence Center | 32, XVIII |
| National Credit Union Administration | 12, VII |
| National Crime Prevention and Privacy Compact Council | 28, IX |
| National Drug Control Policy, Office of | 21, III |
| National Endowment for the Arts | 2, XXXII |
| National Endowment for the Humanities | 2, XXXIII |
| National Foundation on the Arts and the Humanities | 45, XI |
| National Highway Traffic Safety Administration | 23, II, III; 49, V |
| National Imagery and Mapping Agency | 32, I |
| National Indian Gaming Commission | 25, III |
| National Institute for Literacy | 34, XI |
| National Institute of Standards and Technology | 15, II |
| National Intelligence, Office of Director of | 32, XVII |
| National Labor Relations Board | 5, LXI; 29, I |
| National Marine Fisheries Service | 50, II, IV, VI |
| National Mediation Board | 29, X |
| National Oceanic and Atmospheric Administration | 15, IX; 50, II, III, IV, VI |
| National Park Service | 36, I |
| National Railroad Adjustment Board | 29, III |
| National Railroad Passenger Corporation (AMTRAK) | 49, VII |
| National Science Foundation | 2, XXV; 5, XLIII; 45, VI |
| Federal Acquisition Regulation | 48, 25 |
| National Security Council | 32, XXI |
| National Security Council and Office of Science and Technology Policy | 47, II |
| National Telecommunications and Information Administration | 15, XXIII; 47, III |
| National Transportation Safety Board | 49, VIII |
| Natural Resources Conservation Service | 7, VI |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Navajo and Hopi Indian Relocation, Office of | 25, IV |
| Navy Department | 32, VI |
| Federal Acquisition Regulation | 48, 52 |
| Neighborhood Reinvestment Corporation | 24, XXV |
| Northeast Interstate Low-Level Radioactive Waste Commission | 10, XVIII |
| Nuclear Regulatory Commission | 5, XLVIII; 10, I |
| Federal Acquisition Regulation | 48, 20 |
| Occupational Safety and Health Administration | 29, XVII |
| Occupational Safety and Health Review Commission | 29, XX |
| Offices of Independent Counsel | 28, VI |
| Oklahoma City National Memorial Trust | 36, XV |
| Operations Office | 7, XXVIII |
| Overseas Private Investment Corporation | 5, XXXIII; 22, VII |
| Patent and Trademark Office, United States | 37, I |
| Payment From a Non-Federal Source for Travel Expenses | 41, 304 |
| Payment of Expenses Connected With the Death of Certain Employees | 41, 303 |
| Peace Corps | 22, III |
| Pennsylvania Avenue Development Corporation | 36, IX |
| Pension Benefit Guaranty Corporation | 29, XL |
| Personnel Management, Office of | 5, I, XXXV; 45, VIII |
| Federal Acquisition Regulation | 48, 17 |
| Federal Employees Group Life Insurance Federal Acquisition Regulation | 48, 21 |
| Federal Employees Health Benefits Acquisition Regulation | 48, 16 |
| Pipeline and Hazardous Materials Safety Administration | 49, I |
| Postal Regulatory Commission | 5, XLVI; 39, III |
| Postal Service, United States | 5, LX; 39, I |
| Postsecondary Education, Office of | 34, VI |
| President's Commission on White House Fellowships | 1, IV |
| Presidential Documents | 3 |
| Presidio Trust | 36, X |
| Prisons, Bureau of | 28, V |
| Privacy and Civil Liberties Oversight Board | 6, X |
| Procurement and Property Management, Office of | 7, XXXII |
| Productivity, Technology and Innovation, Assistant Secretary | 37, IV |
| Public Contracts, Department of Labor | 41, 50 |
| Public and Indian Housing, Office of Assistant Secretary for | 24, IX |
| Public Health Service | 42, I |
| Railroad Retirement Board | 20, II |
| Reclamation, Bureau of | 43, I |
| Refugee Resettlement, Office of | 45, IV |
| Relocation Allowances | 41, 302 |
| Research and Innovative Technology Administration | 49, XI |
| Rural Business-Cooperative Service | 7, XVIII, XLII |
| Rural Development Administration | 7, XLII |
| Rural Housing Service | 7, XVIII, XXXV |
| Rural Telephone Bank | 7, XVI |
| Rural Utilities Service | 7, XVII, XVIII, XLII |
| Saint Lawrence Seaway Development Corporation | 33, IV |
| Science and Technology Policy, Office of | 32, XXIV |
| Science and Technology Policy, Office of, and National Security Council | 47, II |
| Secret Service | 31, IV |
| Securities and Exchange Commission | 17, II |
| Selective Service System | 32, XVI |
| Small Business Administration | 2, XXVII; 13, I |
| Smithsonian Institution | 36, V |
| Social Security Administration | 2, XXIII; 20, III; 48, 23 |
| Soldiers' and Airmen's Home, United States | 5, XI |
| Special Counsel, Office of | 5, VIII |
| Special Education and Rehabilitative Services, Office of | 34, III |
| State Department | 2, VI; 22, I; 28, XI |
| Federal Acquisition Regulation | 48, 6 |
| Surface Mining and Reclamation Appeals, Board of | 30, III |

| Agency | CFR Title, Subtitle or Chapter |
|---|---|
| Surface Mining Reclamation and Enforcement, Office of | 30, VII |
| Surface Transportation Board | 49, X |
| Susquehanna River Basin Commission | 18, VIII |
| Technology Administration | 15, XI |
| Technology Policy, Assistant Secretary for | 37, IV |
| Technology, Under Secretary for | 37, V |
| Tennessee Valley Authority | 5, LXIX; 18, XIII |
| Thrift Supervision Office, Department of the Treasury | 12, V |
| Trade Representative, United States, Office of | 15, XX |
| Transportation, Department of | 5, L |
| Commercial Space Transportation | 14, III |
| Contract Appeals, Board of | 48, 63 |
| Emergency Management and Assistance | 44, IV |
| Federal Acquisition Regulation | 48, 12 |
| Federal Aviation Administration | 14, I |
| Federal Highway Administration | 23, I, II |
| Federal Motor Carrier Safety Administration | 49, III |
| Federal Railroad Administration | 49, II |
| Federal Transit Administration | 49, VI |
| Maritime Administration | 46, II |
| National Highway Traffic Safety Administration | 23, II, III; 49, V |
| Pipeline and Hazardous Materials Safety Administration | 49, I |
| Saint Lawrence Seaway Development Corporation | 33, IV |
| Secretary of Transportation, Office of | 14, II; 49, Subtitle A |
| Surface Transportation Board | 49, X |
| Transportation Statistics Bureau | 49, XI |
| Transportation, Office of | 7, XXXIII |
| Transportation Security Administration | 49, XII |
| Transportation Statistics Bureau | 49, XI |
| Travel Allowances, Temporary Duty (TDY) | 41, 301 |
| Treasury Department | 5, XXI; 12, XV; 17, IV; 31, IX |
| Alcohol and Tobacco Tax and Trade Bureau | 27, I |
| Community Development Financial Institutions Fund | 12, XVIII |
| Comptroller of the Currency | 12, I |
| Customs and Border Protection Bureau | 19, I |
| Engraving and Printing, Bureau of | 31, VI |
| Federal Acquisition Regulation | 48, 10 |
| Federal Claims Collection Standards | 31, IX |
| Federal Law Enforcement Training Center | 31, VII |
| Fiscal Service | 31, II |
| Foreign Assets Control, Office of | 31, V |
| Internal Revenue Service | 26, I |
| International Investment, Office of | 31, VIII |
| Monetary Offices | 31, I |
| Secret Service | 31, IV |
| Secretary of the Treasury, Office of | 31, Subtitle A |
| Thrift Supervision, Office of | 12, V |
| Truman, Harry S. Scholarship Foundation | 45, XVIII |
| United States and Canada, International Joint Commission | 22, IV |
| United States and Mexico, International Boundary and Water Commission, United States Section | 22, XI |
| Utah Reclamation Mitigation and Conservation Commission | 43, III |
| Veterans Affairs Department | 2, VIII; 38, I |
| Federal Acquisition Regulation | 48, 8 |
| Veterans' Employment and Training Service, Office of the Assistant Secretary for | 41, 61; 20, IX |
| Vice President of the United States, Office of | 32, XXVIII |
| Vocational and Adult Education, Office of | 34, IV |
| Wage and Hour Division | 29, V |
| Water Resources Council | 18, VI |
| Workers' Compensation Programs, Office of | 20, I |
| World Agricultural Outlook Board | 7, XXXVIII |

# List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations that were made by documents published in the FEDERAL REGISTER since January 1, 2001, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 2001, see the ''List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, and 1986–2000,'' published in 11 separate volumes.

## 2001

## 27 CFR

66 FR Page

Chapter I

1.1 (a) amended ..... 42733
1.31 Amended ..... 42733
1.35 Amended ..... 42733
1.50 Amended ..... 42733
1.51 Amended ..... 42733
1.52 Amended ..... 42733
1.57 Amended ..... 42733
4 Cross references amended ..... 38549, 42733
4.21 (d)(1)(i) and (e)(1)(i) amended ..... 37578
(e)(5) amended ..... 58944
4.22 (b)(5) amended ..... 37578
4.91 Amended ..... 49280
5.2 Amended ..... 38549, 42733
7.4 Amended ..... 38549, 42733
9.53 (c)(6) revised; (c)(7) removed ..... 50565
9.64 (c) introductory text and (1) revised ..... 50565
9.74 (c)(43) and (44) revised ..... 11542
9.91 Revised ..... 11542
9.162 Added ..... 29479
9.164 Added ..... 23592
9.166 Added ..... 29698
9.167 Added ..... 18545
9.168 Added ..... 11539
9.170 Added ..... 26791
9.172 Added ..... 13430
12.3 (a) amended ..... 42733
13.2 Added ..... 19085
13.11 Amended ..... 19085
13.20 Added ..... 19085
13.21 (a) amended; (b) revised ..... 19085
13.23 Amended ..... 19085

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

13.25 (a) and (b) amended ..... 19085
13.26 (a) and (b) amended ..... 19085
13.27 (c) amended ..... 19085
(a) and (b) revised ..... 19086
13.41 Amended ..... 19085
13.42 Amended ..... 19085
13.43 (a) and (b) amended ..... 19085
13.44 Revised ..... 19086
13.45 (a) and (b) amended ..... 19086
13.52 Amended ..... 19085
13.53 Amended ..... 19085
13.54 (a) and (b) amended ..... 19085, 19086
13.61 (b) amended ..... 19085
13.62 Revised ..... 19086
13.71 Revised ..... 19086
13.72 (b) amended ..... 19086
13.74 Amended ..... 19086
13.92 Amended ..... 19086
17.2 (a) amended; (b) revised ..... 5470
17.3 (a) introductory text, (b) and (c) amended ..... 5470
17.5 Amended ..... 38549
17.6 Amended ..... 5470
17.7 Added ..... 5470
17.11 Amended ..... 5470
17.54 Amended ..... 5471
17.55 Amended ..... 5470
17.92 Amended ..... 5471
17.101 Amended ..... 5471
17.105 (b) amended ..... 5471
17.107 Amended ..... 5471
17.108 (c) amended ..... 5471
17.111 (a) introductory text and (b) amended ..... 5471
17.112 Amended ..... 5471
17.113 Amended ..... 5471
17.114 Amended ..... 5471

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

17.121 (d) amended ..... 5470
(b) amended ..... 5471
17.122 Amended ..... 5470, 5471
17.125 (a) and (b) amended ..... 5471
17.126 (a) amended ..... 5471
17.131 Amended ..... 5471
17.134 Amended ..... 5470
17.136 Amended ..... 5471
17.141 Amended ..... 5471
17.142 (a) amended ..... 5471
17.143 Amended ..... 5471
17.144 Amended ..... 5471
17.145 Amended ..... 5471
17.147 (a) amended ..... 5471
17.161 Amended ..... 5470
17.166 (c) amended ..... 5471
17.167 (b) amended ..... 5471
17.168 (a) amended ..... 5471, 42736
17.170 Amended ..... 5471
17.171 Amended ..... 5470
17.182 Amended ..... 5470
17.183 (a) amended ..... 5470
(b) and (c) amended ..... 5471
18 Authority citation revised ..... 29481
18.11 Amended ..... 5471, 29482
18.12 Added ..... 5471
18.13 (a) introductory text amended; (b) revised ..... 5471
18.14 (a) introductory text and (b) amended ..... 5472
18.15 Amended ..... 5472
18.16 (a) amended ..... 5471
(a) amended; (b) revised ..... 5472
18.17 Amended ..... 5472
18.19 Amended ..... 5472
18.21 Amended ..... 5472
18.22 (b) amended ..... 5472
18.23 Amended ..... 42736
18.24 Amended ..... 5472
18.26 Amended ..... 5472
18.27 (a) introductory text amended ..... 5472
18.39 Added ..... 29482
18.40 Added ..... 29482
18.41 Added ..... 29482
18.42 Added ..... 29482
18.43 Added ..... 29482
18.52 (b) amended ..... 5471
18.56 Revised ..... 29482
18.61 (a) and (b) amended ..... 5472
18.65 Revised ..... 5472
19.3 Amended ..... 38549, 42733, 42736
19.161 (c) amended ..... 42733
19.163 (f) amended ..... 42733
19.164 Amended ..... 42733
19.169 Amended ..... 42736

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

19.207 Added ..... 29482
19.460 (a) amended ..... 12854
19.485 (a)(1) and (2) amended ..... 38549
19.524 (a)(1), (b)(1) and (3) amended ..... 38549
19.911 (c) amended ..... 42733
19.950 (f) amended ..... 42733
19.1005 (c)(2) amended ..... 12854
20.3 Amended ..... 38549, 42733, 42736
20.11 Amended ..... 5473
20.20 Added ..... 5473
20.21 (a) amended ..... 5473
(a) amended; (b) revised ..... 5474
20.22 (a)(1) revised; (a)(2), (3), (4), (b)(1), (2), (3) and (c) amended ..... 5474
20.23 Amended ..... 5474
20.24 Amended ..... 5474
20.25 Revised ..... 5474
20.26 Amended ..... 5474
20.27 Amended ..... 5474
20.28 (a) and (b) amended ..... 5474
20.37 Amended ..... 5474
20.41 (c) introductory text amended ..... 5474
20.42 (a)(11) and (b) amended ..... 5474
20.43 (a) introductory text amended ..... 5474
20.44 Introductory text amended ..... 5474, 42733
20.45 (c)(1) revised ..... 5474
20.48 (b) and (c) amended ..... 5474
20.50 Amended ..... 5474
20.51 Introductory text amended ..... 5474, 42733
20.52 Amended ..... 42733
20.53 Amended ..... 5474
20.56 (a)(1), (b), (c)(1) and (3) amended ..... 5474
20.57 (b)(1) and (2) amended ..... 5474
20.60 Amended ..... 5474
20.61 Amended ..... 5474
20.62 (a) amended ..... 5474
20.63 (a) amended ..... 5474
20.64 Amended ..... 5474
20.66 Amended ..... 42736
20.68 (a) introductory text amended ..... 5474
20.72 (b) amended ..... 5474
20.74 Amended ..... 5474
20.79 Amended ..... 5474
20.80 Amended ..... 5474
20.82 Amended ..... 5474
20.91 (a) and (c) amended ..... 5474
20.92 (a) and (b) amended; (c) revised ..... 5474

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

20.95 (a) amended ..... 5474
20.100 (a) introductory text amended; (b) revised ..... 5474
20.103 Amended ..... 5474
20.111 Amended ..... 5474
20.117 (d)(2)(iv) and (v) amended ..... 5474
20.132 (c) amended ..... 5474
20.133 (a) introductory text and (b) amended ..... 5474
20.134 (c) amended ..... 5474
(b)(1)(ii) amended ..... 5475
20.144 Amended ..... 5474
20.147 (b) amended ..... 5475
20.161 (c)(3) amended ..... 5474
20.163 (c)(2) amended ..... 5474
20.164 (e) amended ..... 5474
20.166 Amended ..... 5474
20.170 Amended ..... 5474
20.178 (c)(1) amended ..... 5474
20.181 (a) amended ..... 5474
20.189 (e) amended ..... 5475
20.190 Revised ..... 5475
20.202 (a) amended ..... 5474
20.204 (b) amended ..... 5474
20.205 Introductory text and (f) amended ..... 5474
20.211 (b) amended ..... 5474
20.213 (a) and (b) amended ..... 5474
20.234 (b)(3) amended ..... 5474
20.235 (c) amended ..... 5474
20.241 Amended ..... 5475
20.242 (b) amended ..... 5475
20.244 Amended ..... 5475
20.245 Amended ..... 5474
20.246 Amended ..... 5474
20.251 (a) amended ..... 5475
20.252 (a) and (b) amended ..... 5474
20.261 Amended ..... 5474
20.262 (c) and (d) amended ..... 5474
20.263 (c) and (d) amended ..... 5474
20.265 (a) introductory text and (b) amended ..... 5474
20.267 (a) amended ..... 5475
21.2 (a) amended; (b) revised ..... 5475
21.3 (b) and (d) amended; (c) revised ..... 5475
21.5 Introductory text amended ..... 5475
21.7 Added ..... 5475
21.11 Amended ..... 5475
21.21 (b) and (c) amended ..... 5475
21.31 (b) and (c) amended ..... 5475
21.32 (a) amended ..... 12854
21.33 (c) amended ..... 5475
(a) revised ..... 12854

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

21.34 (c) amended ..... 5475
21.56 (a) amended ..... 5475
21.65 (a) amended ..... 5475, 12854
21.76 (a) amended ..... 12854
21.91 Amended ..... 5475, 12854
21.95 Redesignated as 21.96; new 21.95 added ..... 12854
21.96 Redesignated as 21.97; new 21.96 redesignated from 21.95 ..... 12854
21.97 Redesignated as 21.98; new 21.97 redesignated from 21.96 ..... 12854
21.98 Redesignated as 21.99; new 21.98 redesignated from 21.97 ..... 12854
21.99 Redesignated as 21.100; new 21.99 redesignated from 21.98 ..... 12854
21.100 Redesignated as 21.101; new 21.100 redesignated from 21.99 ..... 12854
21.101 Redesignated as 21.102; new 21.101 redesignated from 21.100 ..... 12854
21.102 Redesignated as 21.103; new 21.102 redesignated from 21.101 ..... 12854
21.103 Redesignated as 21.104; new 21.103 redesignated from 21.102 ..... 12854
21.104 Redesignated as 21.105; new 21.104 redesignated from 21.103 ..... 12854
21.105 Redesignated as 21.106; new 21.105 redesignated from 21.104 ..... 12854
21.106 Redesignated as 21.107; new 21.106 redesignated from 21.105 ..... 12854
21.107 Redesignated as 21.108; new 21.107 redesignated from 21.106 ..... 12854
21.108 Redesignated as 21.109; new 21.108 redesignated from 21.107 ..... 12854
21.109 Redesignated as 21.210; new 21.109 redesignated from 21.108 ..... 12854
21.110 Redesignated as 21.111; new 21.110 redesignated from 21.109 ..... 12854
21.111 Redesignated as 21.112; new 21.111 redesignated from 21.110 ..... 12854

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

21.112 Redesignated as 21.113; new 21.112 redesignated from 21.111 ..... 12854
21.113 Redesignated as 21.114; new 21.113 redesignated from 21.212 ..... 12854
21.114 Redesignated as 21.115; new 21.114 redesignated from 21.213 ..... 12854
21.115 Redesignated as 21.116; new 21.115 redesignated from 21.214 ..... 12854
21.116 Redesignated as 21.117; new 21.116 redesignated from 21.215 ..... 12854
21.117 Redesignated as 21.118; new 21.117 redesignated from 21.216 ..... 12854
21.118 Redesignated as 21.119; new 21.118 redesignated from 21.117 ..... 12854
21.119 Redesignated as 21.120; new 21.119 redesignated from 21.118 ..... 12854
21.120 Redesignated as 21.121; new 21.120 redesignated from 21.119 ..... 12854
21.121 Redesignated as 21.122; new 21.121 redesignated from 21.120 ..... 12854
21.122 Redesignated as 21.123; new 21.122 redesignated from 21.121 ..... 12854
21.123 Redesignated as 21.124; new 21.123 redesignated from 21.122 ..... 12854
21.124 Redesignated as 21.125; new 21.124 redesignated from 21.123 ..... 12854
21.125 Redesignated as 21.126; new 21.125 redesignated from 21.124 ..... 12854
21.126 Redesignated as 21.127; new 21.126 redesignated from 21.125 ..... 12854
21.127 Redesignated as 21.128; new 21.127 redesignated from 21.126 ..... 12854
21.128 Redesignated as 21.129; new 21.128 redesignated from 21.127 ..... 12854
21.129 Redesignated as 21.130; new 21.129 redesignated from 21.128 ..... 12854

## 27 CFR—Continued

66 FR Page

Chapter I—Continued

21.130 Redesignated as 21.131; new 21.130 redesignated from 21.129 ..... 12854
21.131 Redesignated as 21.132; new 21.131 redesignated from 21.130 ..... 12854
21.132 Redesignated as 21.133; new 21.132 redesignated from 21.131 ..... 12854
21.133 Redesignated from 21.132 ..... 12854
21.141 Footnote 1 amended ..... 5475
Table amended ..... 12854
21.151 Amended ..... 12854
22.3 Amended ..... 38550, 42733, 42736
22.11 Amended ..... 5475
22.20 Added ..... 5476
22.21 (a) amended; (b) revised ..... 5476
(a) amended; eff. 5–1–01 ..... 13015
22.22 (a)(1) through (4), (b)(1), (2) and (3) amended; (c) revised ..... 5476
22.23 Amended ..... 5476
22.24 (a) and (b) amended ..... 5476
22.25 Amended ..... 5476
Removed; new 22.25 redesignated from 22.26 ..... 13015
22.26 Amended ..... 5476
Redesignated as 22.25; new 22.26 redesignated from 22.27 ..... 13015
22.27 (a) and (b) amended ..... 5476
Redesignated as 22.26 ..... 13015
22.36 Amended ..... 5476
22.39 (c) amended ..... 5476
22.41 (b) amended ..... 5476
22.42 (a)(11) and (b) amended ..... 5476
22.43 (a) introductory text amended ..... 5476
(a)(2) and (b) revised ..... 13015
22.44 Introductory text amended ..... 5476, 42733
22.45 (c)(1) amended ..... 5476
22.50 Amended ..... 5476
22.51 Introductory text amended ..... 5476, 42733
22.52 Amended ..... 42733
22.53 Amended ..... 5476
22.57 (a)(1), (b), (c)(1) and (3) amended ..... 5476
22.58 (b)(1) and (2) amended ..... 5476
22.59 Amended ..... 13015
22.60 (b) removed; (c) and (d) redesignated as new (b) and (c) ..... 13015
22.61 Amended ..... 5476
22.62 Amended ..... 5476, 13015
22.63 (a) amended ..... 5476

## 27 CFR—Continued

66 FR Page

Chapter I—Continued
(a) designation, heading and (b) removed....13015
22.64 Amended....5476
22.66 Amended....42736
22.68 (a) amended....5476
(a) designation, heading and (b) removed....13015
22.71—22.82 (Subpart E) Removed....13015
22.72 (b) amended....5476
22.74 Amended....5476
22.79 Amended....5476
22.80 Amended....5476
22.82 Amended....5476
22.102 (c) introductory text amended....5476
22.103 Amended....5476
22.111 (c)(3) amended....5476
22.113 (a) and (c) amended....5476
22.122 (a) amended....5476
22.124 (b) amended....5476
22.125 (a) introductory text and (c) amended....5476
22.142 (a), (c) and (d) amended....5476
22.152 (b) removed; (c) redesignated as new (b)....13015
22.154 (b)(3) amended....5476
22.161 (a) and (d) amended....5476
22.162 Amended....5476
22.164 (a) amended....5476
22.171 (a) amended....5476
22.172 (b) amended....5476
22.174 Amended....5476
22.175 Amended....5476
22.176 (c) amended....5476
24.4 Amended....38550, 42734, 42736, 58944
24.114 Amended....42737
24.135 (a) amended....29483
24.178 (b)(3) and (4) revised....37578
24.257 (a) revised....58944
24.272 (a)(1), (b)(1) and (3) amended....38550
25.3 (a) amended; (b) revised....5478
25.4 Amended....42737
25.6 Added....5478
25.11 Amended....5478
25.22 Amended....5478
25.23 (b) introductory text and (c) amended....5478
25.24 (a)(7) amended....5478
25.25 (a) amended....5478
25.31 (a) amended....5478
25.42 Introductory text and (c) amended....5478
25.51 Revised....5478
25.52 (a)(1) through (5), (b)(1), (2) and (3) amended....5478

## 27 CFR—Continued

66 FR Page

Chapter I—Continued
(d) revised....5479
25.61 (a) and (c) amended....5478
(b) amended....5479
25.62 (b) amended....5479
25.63 Amended....5478
25.64 Amended....5478
25.65 Amended....5479
25.66 (c)(1) and (d) amended....5478
25.68 (b) amended....5478
25.71 (a)(2) and (b)(1) amended....5478
(a)(1) amended....5479
25.72 (b)(2) amended....5478
25.74 Amended....5478
25.75 Amended....5478
25.77 Amended....5478
25.78 Amended....5479
25.81 (e) amended....5478
(b) introductory text and (c) introductory text amended....5479
25.85 Amended....5479
25.91 (c) and (d) amended....5478
(a) amended....5479
25.95 Amended....5478
25.96 Amended....5478
25.101 (a) introductory text and (b) amended....5478
(b) revised....5479
25.103 Amended....5478
25.104 Amended....5478
25.105 Amended....5478
25.114 (a) amended....5478
25.127 Amended....5478
25.141 (b)(2) amended....5479
25.142 (c) amended....5478
(b)(2) amended....5479
25.144 (b) amended....5478
25.152 (a) amended....5478
25.155 Amended....5478
25.158 (c) amended....5478
25.165 (b)(3) and (e) amended....5478
(b)(1) amended....5479
(a)(1), (b)(1) and (3) amended....38550
25.167 (a) amended....5478
25.173 (a) amended....5478
25.182 Amended....5478
25.184 (d) amended....5478
(c) amended....5479
25.196 (b) amended....5478
25.213 (c) amended....5478
(b) amended....5479
25.222 (a) and (b) amended....5479
25.223 (a) amended....5478
(b) revised....5479
25.225 (b)(2) amended....5478, 5479
25.251 (c) amended....5478
25.252 (c) amended....5478

## 27 CFR—Continued

66 FR Page

Chapter I—Continued


25.272 (a) introductory text and (b) through (e) amended ..... 5478
25.273 Revised ..... 5480
25.274 (a) amended ..... 5478
25.276 (b) amended ..... 5479
(c) amended ..... 5480
25.277 Amended ..... 5478
25.281 (c) amended ..... 5478
25.282 (b), (c), (d) and (f) amended ..... 5478
(e) revised ..... 5480
25.283 (d) amended ..... 5478
(e) amended ..... 5480
25.284 (b) amended ..... 5478
(d) amended ..... 5480
(d) corrected ..... 17809
25.285 (a) amended ..... 5480
25.286 (a) amended ..... 5479
25.291 (c)(2)(ii) and (d)(3) amended ..... 5478
25.294 (c) amended ..... 5478
25.297 (b)(4) amended ..... 5478
(a) and (b) amended ..... 5480
25.300 (a), (c) and (d)(3) amended ..... 5478
26 Redesignated from Part 250 ..... 38550
26.3 Amended ..... 38550
26.11 Amended ..... 38550
26.30 Amended ..... 38550
26.35 (a) amended ..... 38550
26.45 Amended ..... 38551
26.47 Amended ..... 38550
26.50 (a) and (b) amended ..... 38551
26.51 (c) amended ..... 38551
26.55 Amended ..... 38551
26.68a Amended ..... 38551
26.70 Amended ..... 38551
26.71 (a) amended ..... 38551
26.72 Amended ..... 38551
26.73 Amended ..... 38551
26.74 Amended ..... 38551
26.77 (c) amended ..... 38551
26.79 (a) amended ..... 38551
26.80 (a) amended ..... 38551
26.81 (a) amended ..... 38551
26.82 Amended ..... 38551
26.87 Amended ..... 38551
26.95 (b) amended ..... 38551
26.96b Amended ..... 38551
26.104 (b) amended ..... 38551
26.105a Amended ..... 38551
26.107 Amended ..... 38550
26.108 (a), (b) and (c) amended ..... 38551
26.109 (a), (b) and (c) amended ..... 38551
26.110 Amended ..... 38551
26.112 (a), (c)(2), (d)(2) and (e) amended ..... 38551


## 27 CFR—Continued

66 FR Page

Chapter I—Continued


26.112a (a)(1), (b)(2) and (3) amended ..... 38551
26.113 (c) through (f) amended ..... 38551
26.114 Amended ..... 38552
26.115 Amended ..... 38552
26.163 Amended ..... 38552
26.165 (a)(2) and (3) amended ..... 38552
26.173 (b)(4) amended ..... 38552
26.193 (a) and (b) amended ..... 38552
26.194 (a) and (b) amended ..... 38552
26.196 Amended ..... 38552
26.199a (a) amended ..... 38551
26.199b Amended ..... 38551
26.200 (a) amended ..... 38552
26.204 Amended ..... 38552
26.205 (a)(8) introductory text, (iv) and (b) amended ..... 38552
26.211 Amended ..... 38552
26.220 (a) and (b) amended ..... 38552
26.221 (c) amended ..... 38552
26.225 Amended ..... 38552
26.260 Amended ..... 38552
26.261 Amended ..... 38552
26.262 (a) and (c) amended ..... 38552
26.263 Amended ..... 38552
26.264 Amended ..... 38552
26.265 Amended ..... 38552
26.272 Amended ..... 38552
26.273a Introductory text amended ..... 38552
26.291 (a), (b)(1), (2) and (c) amended ..... 38552
26.301 Amended ..... 38552
26.302 (a) and (b) amended ..... 38552
26.303 Amended ..... 38552
26.309 (b)(4) and (c)(2)(viii) amended ..... 38552
26.318 Amended ..... 38552
29 Redesignated from Part 170; heading revised; authority citation revised ..... 42737
29.42 Amended ..... 42737
29.45 Amended ..... 42737
29.47 (c) amended ..... 42737
29.49 (c) amended ..... 42737
29.59 Amended ..... 42737
30.11 Amended ..... 5481
30.21 (c) revised ..... 5481
30.24 (a) and (b) amended ..... 5481
30.31 (b) amended ..... 5481
30.36 Amended ..... 5481
30.43 Amended ..... 5481
30.51 Amended ..... 5481

# 2002

## 27 CFR

67 FR Page

Chapter I

4 Amended ..... 30797
4.1—4.4 (Subpart A) Undesignated cross-references and center heading removed ..... 62857
4.5 Added ..... 62857
4.91 Added ..... 11918
Amended ..... 56481
4.101 (Subpart K) Added ..... 62858
5.2 Amended ..... 30797
Revised ..... 62858
5.71 (Subpart I) Added ..... 62858
7.4 Amended ..... 30798
Revised ..... 62858
7.81 (Subpart I) Added ..... 62858
9.107 (b) and (c) revised ..... 56484
9.173 Added ..... 9193
9.174 Added ..... 72839
9.176 Added ..... 77924
13.1 Amended ..... 62858
13.3 Added ..... 62858
13.51 Amended ..... 62858
13.61 (a) text redesignated as (a)(1); new (a)(1) heading and (2) added ..... 62859
13.101 (Subpart G) Added ..... 62859
19.3 Amended ..... 30798
19.524 (a)(1), (b)(1) and (3) amended ..... 30798
19.538 (a)(1)(iii) amended ..... 30798
20.3 Amended ..... 17938, 30798
20.21 (a) amended ..... 17938
20.22 (a)(3) removed; (a)(4) redesignated as new (a)(3) ..... 17938
20.26 Removed ..... 17938
20.43 (a)(2) and (b) revised ..... 17938
20.58 Amended ..... 17939
20.59 (b) removed; (c) and (d) redesignated as new (b) and (c) ..... 17939
20.61 Amended ..... 17939
20.62 (a) designation, heading and (b) removed ..... 17939
20.68 (b) removed; (c) redesignated as new (b) ..... 17939
20.71—20.82 (Subpart E) Removed ..... 17939
20.175 (c) revised ..... 17939
Corrected ..... 20868
20.177 (b) amended ..... 17939
20.232 (b) removed; (c) redesignated as new (b) ..... 17939
20.241 Amended ..... 17939
22.3 Amended ..... 30798
22.171 (b) amended ..... 30798

## 27 CFR—Continued

67 FR Page

Chapter I—Continued

24.4 Amended ..... 30798
24.272 (a)(1), (b)(1) and (3) amended ..... 30798
25.165 (a)(1), (b)(1) and (3) amended ..... 30798
26.112a (a)(1), (b)(1) and (3) amended ..... 30798
26.267 (a) amended ..... 30798
27 Redesignated from Part 251 ..... 30799
27.3 Amended ..... 30799
27.11 Amended ..... 30799
27.31 Amended ..... 30799
27.40 (c) amended ..... 30799
27.44 Amended ..... 30799
27.74 Amended ..... 30799
27.76 (c)(3) amended ..... 30799
27.77 (a), (b)(1), (2), (3)(iii) and (d) amended ..... 30799
27.120 Amended ..... 30799
27.133 Amended ..... 30799
27.138 Introductory text amended ..... 30799
27.172 Amended ..... 30799
27.185 (b) amended ..... 30799
27.208 Amended ..... 30799

# 2003

## 27 CFR

68 FR Page

Chapter I

Chapter I Heading revised ..... 3747
4.21 (h)(2) introductory text revised ..... 39455
4.22 (b)(5) revised ..... 39455
4.25 Removed; new 4.25 redesignated from 4.25a ..... 39455
4.25a Redesignated as 4.25 ..... 39455
4.30 (a) amended ..... 39455
4.35 Removed; new 4.35 redesignated from 4.35a ..... 39455
4.35a Redesignated as 4.35 ..... 39455
4.39 (h) revised; eff. 6–2–03 ..... 10103
4.64 (i) revised; eff. 6–2–03 ..... 10103
4.72 Removed; new 4.72 redesignated from 4.73 ..... 39455
4.73 Redesignated as 4.72 ..... 39455
5.42 (b)(8) revised; eff. 6–2–03 ..... 10104
5.65 (d) revised; eff. 6–2–03 ..... 10105
7.29 (e) revised; eff. 6–2–03 ..... 10104
7.54 (e) revised; eff. 6–2–03 ..... 10106
9.66 (c)(9) amended; (c)(10) and (11) revised; (c)(12) through (24) redesignated as (c)(14) through (26); new (c)(12) and (13) added ..... 67370
9.128 Added ..... 39835

## 27 CFR—Continued

68 FR Page

Chapter I—Continued

9.142 Added ..... 61748

# 2004

## 27 CFR

69 FR Page

Chapter I

1—30 (Subchapter A) Heading revised ..... 3829
4.5 Amended ..... 3829
4.32 (d) removed ..... 33573
5.2 Amended ..... 3829
5.32 (b)(6) removed ..... 33574
7.22 (b)(5) removed ..... 33574
9.50 Heading, (a), (b) introductory text and (c) introductory text revised; (d) added ..... 20825
9.56 (c)(24) and (25) revised; (c)(26) and (27) added ..... 38836
9.161 Added; eff. 4–26–04 ..... 8564
9.163 Added ..... 38833
9.169 Added ..... 41754
9.171 Added ..... 38836
9.178 Added ..... 25833
9.179 Added ..... 70892
9.180 Added ..... 69527
9.183 Added ..... 71374
13.3 Amended ..... 3829
19.3 Amended ..... 3829
19.46 Amended ..... 3829
19.396 Amended ..... 3829
19.397 Amended ..... 3829
19.531 (h) amended ..... 3829
19.540 (a) amended ..... 3829
19.605 (a)(1) amended ..... 3829
19.606 (c) amended ..... 3829
19.607 (a)(6) amended ..... 3829
19.608 (a)(7) amended ..... 3829
19.685 (a) amended ..... 3829
19.686 (a) amended ..... 3830
19.687 Amended ..... 3830
19.769 Introductory text amended ..... 3830
24.4 Amended ..... 3830
24.67 (a) amended ..... 3830
24.246 Table amended ..... 67643
24.248 Table amended ..... 67644
24.292 (a) and (b) amended ..... 3830
25.4 Amended ..... 3830
25.145 (b)(4) amended ..... 3830
25.203 Amended ..... 3830
25.261 (a)(4) amended ..... 3830
28 Redesignated from Part 252 ..... 3830
Heading revised ..... 3831
28.2 (a) and (b) amended ..... 3831
28.4 Heading and text amended ..... 3831
28.11 Amended ..... 3831

## 27 CFR—Continued

69 FR Page

Chapter I—Continued

28.20 (a)(1), (2) heading, introductory text, (3), (4), (b)(1), (2) introductory text heading and text, (3) and (c) amended ..... 3831
28.21 (b) and (e) amended ..... 3831
28.22 Text and note amended ..... 3831
28.23 Amended ..... 3831
28.25 Amended ..... 3831
28.26 (a)(1) and (b) amended ..... 3831
28.27 Amended ..... 3831
28.28 Amended ..... 3831
28.30 (a) amended ..... 3831
28.35 Amended ..... 3831
28.36 Introductory text, (c) and concluding text amended ..... 3831
28.37 Heading and text amended ..... 3831
28.38 Amended ..... 3831
28.40 (a), (b) and (c) amended ..... 3831
(d) and (e) amended ..... 3832
28.41 Amended ..... 3832
28.42 Amended ..... 3832
28.43 (a)(2), (3), (4), (6), (b)(1), (2) and (3) amended ..... 3832
28.45 Amended ..... 3832
28.52a Amended ..... 3832
28.55 Amended ..... 3832
28.56 Introductory text amended ..... 3832
28.57 Heading and text amended ..... 3832
28.58 (a), (b) and (c) amended ..... 3832
28.59 Amended ..... 3832
28.60 Amended ..... 3832
28.61 Amended ..... 3832
28.62 (a) through (d) amended ..... 3832
28.63 Amended ..... 3832
28.64 (a) amended ..... 3832
28.65 Amended ..... 3832
28.67 Amended ..... 3832
28.70 Amended ..... 3832
28.71 Amended ..... 3832
28.72 Amended ..... 3832
28.73 (a) and (b) amended ..... 3832
28.74 Amended ..... 3832
28.91 (a)(2) and (5) amended ..... 3832
28.92 Heading, (a) and (b) amended ..... 3832
28.95 Amended ..... 3832
28.96 Amended ..... 3832
28.98 Amended ..... 3832
28.103 (b) amended ..... 3832
28.104 Amended ..... 3832
28.105 Amended ..... 3832
28.107 Amended ..... 3832
28.115 Introductory text amended ..... 3832

## 27 CFR—Continued

69 FR Page

Chapter I—Continued

28.116 Introductory text amended ..... 3832, 3833
(e) amended ..... 3833
28.117 Amended ..... 3833
28.121 (b) and (d) amended ..... 3833
28.122 Heading and (a) through (d) amended ..... 3833
28.123 (b) amended ..... 3833
28.125 Amended ..... 3833
28.126 Amended ..... 3833
28.131 Introductory text, (c) and concluding text amended ..... 3833
28.132 Amended ..... 3833
28.133 Amended ..... 3833
28.141 (a)(2) and (c) amended ..... 3833
28.146 Amended ..... 3833
28.147 Amended ..... 3833
28.151 Amended ..... 3833
28.152 Heading and text amended ..... 3833
28.153 Amended ..... 3833
28.160 Introductory text amended ..... 3833
28.161 Introductory text and (c) amended ..... 3833
28.162 Amended ..... 3833
28.171 (b), (d) and concluding text amended ..... 3833
28.190 Heading and text amended ..... 3833
28.192 Amended ..... 3833
28.195b (a), (b) and (c) amended ..... 3833
28.197 Introductory text amended ..... 3833
28.198 Introductory text and (b) amended ..... 3833
28.199 Amended ..... 3833
28.211 (b) and concluding text amended ..... 3833
28.214 Amended ..... 3833
28.215 Amended ..... 3833
28.218 Amended ..... 3833
28.219 Introductory text amended ..... 3833, 3834
28.220 Introductory text amended ..... 3834
28.220a Amended ..... 3834
28.221 (b) and concluding text amended ..... 3834
28.225 Introductory text amended ..... 3834
28.226 Amended ..... 3834
28.227 Amended ..... 3834
28.246 Amended ..... 3834
28.247 Amended ..... 3834

## 27 CFR—Continued

69 FR Page

Chapter I—Continued

28.250 Introductory text, (a)(4) and concluding text amended ..... 3834
28.252 Amended ..... 3834
28.261 Amended ..... 3834
28.262 Amended ..... 3834
28.264 Amended ..... 3834
28.265 Amended ..... 3834
28.266 Amended ..... 3834
28.267 Amended ..... 3834
28.268 Amended ..... 3834
28.269 (a), (b) and (c) amended ..... 3834
28.275 Amended ..... 3834
28.281 Amended ..... 3834
28.282 Amended ..... 3834
28.285 Amended ..... 3834
28.286 Amended ..... 3834
28.290 Introductory text amended ..... 3834
28.291 Introductory text, (f), (g) and (h) amended ..... 3834
28.295 Amended ..... 3834
28.301 Amended ..... 3834
28.302 Introductory text and concluding text amended ..... 3834
28.303 Introductory text amended ..... 3834
28.304 Amended ..... 3834
28.310 Amended ..... 3834
28.315 Amended ..... 3834
28.316 Introductory text and concluding text amended ..... 3834
28.317 Introductory text and concluding text amended ..... 3834
28.318 Amended ..... 3834
28.320 (a) and (b) amended ..... 3835
28.321 Amended ..... 3835
28.331 Amended ..... 3835
28.332 Amended ..... 3835
28.333 Amended ..... 3835
28.334 Amended ..... 3835
28.335 Amended ..... 3835

# 2005

## 27 CFR

70 FR Page

Chapter I

4.21 (f)(1)(i) amended ..... 2801
4.45 Heading revised; existing text designated as (a); new (a) amended; (b) added ..... 49482
7.10 Amended; eff. 1-3-06 ..... 234
7.11 Added; eff. 1-3-06 ..... 234
7.22 (a)(5) added; eff. 1-3-06 ..... 234
7.29 (a) introductory text revised; (a)(7) added; eff. 1-3-06 ..... 234

## 27 CFR—Continued

70 FR Page

Chapter I—Continued

7.31 (d) redesignated as (e); new (d) added; eff. 1-3-06 ..... 235
7.54 (a) introductory text revised; (a)(8) added; eff. 1-3-06..... 235
9.66 (b) and (c)(8) through (14) revised; (c)(15) through (26) redesignated as (c)(23) through (34); new (c)(15) through (22) added..... 53299
9.162 Heading, (a), (b) introductory text and (c) introductory text revised; (d) added ..... 72713
9.175 Added ..... 59995
9.177 Added ..... 38003
9.182 Added ..... 31344
9.181 Added ..... 2804
9.182 Added ..... 31344
9.184 Added; eff. 4–29–05 ..... 9530
9.185 Added ..... 72716
9.186 Added ..... 53303
9.188 Added; eff. 8–1–05 ..... 38007
9.189 Added ..... 38001
9.190 Added ..... 60001
9.191 Added ..... 72719
9.192 Added ..... 72710
17 Authority citation revised..... 62241
17.21 Existing text designated as (a) and amended; (b) added..... 62241
17.22 Amended ..... 62241
17.23 Amended ..... 62241
17.24 Existing text designated as (a) and amended; (b) added..... 62241
17.31 Amended ..... 62241
17.32 (a)(5) amended; (b) revised..... 62241
17.51 Existing text designated as (a) and amended; (b) added..... 62241
17.61 Revised ..... 62241
17.62 Amended ..... 62242
17.71 Existing text designated as (a) and amended; (b) added..... 62242
17.73 Amended ..... 62242
17.75 Revised ..... 62242
17.76 Revised ..... 62242
17.77 Revised ..... 62242
17.81 Amended ..... 62242
17.82 Amended ..... 62242
17.83 Amended ..... 62242
17.187 Amended..... 19882
19 Authority citation revised..... 62242
19.3 Amended..... 19882
19.49 (b)(1) amended ..... 19882
(a)(3) added; (b)(2) and (c) revised ..... 62242
19.50 (a) and (b) amended ..... 62243
19.51 (a), (b)(5) and (c) revised ..... 62243

## 27 CFR—Continued

70 FR Page

Chapter I—Continued

19.53 (a) revised..... 62243
19.54 (a) amended; (b) and (d) revised..... 62243
19.634 Amended..... 19882
19.906 (a) amended..... 62243
24 Authority citation revised..... 62244
24.4 Amended..... 19882
24.50 (a) and (b) amended; (c) and authority citation added; OMB number..... 62244
24.51 (a) and (b) amended ..... 62244
24.52 (d) amended ..... 19882
(a) through (d) amended ..... 62244
24.53 (a), (b)(5), (c) introductory text, (1) and (2) amended..... 62244
24.54 (a) revised..... 62244
24.55 (a) amended; (b) and (d) revised; authority citation added; OMB number ..... 62244
24.202 Amended ..... 2801
24.203 Revised ..... 2801
24.301 (i) and (j) amended; (k) added..... 49483
24.302 (h) and (i) amended; (j) added..... 49483
25 Authority citation revised..... 62245
25.11 Amended; eff. 1-3-06..... 235
25.15 Undesignated center heading and section added; eff. 1-3-06..... 235
25.24 (a)(2) and (6) amended..... 19883
25.53 Undesignated center heading and section added; eff. 1-3-06..... 235
25.55 Undesignated center heading and section added; eff. 1-3-06..... 235
25.56 Added; eff. 1-3-06..... 235
25.57 Added; eff. 1-3-06..... 235
25.58 Added; eff. 1-3-06..... 235
25.62 (a)(7) removed; eff. 1-3-06 ..... 237
25.67 Removed; eff. 1-3-06..... 237
25.76 Removed; eff. 1-3-06..... 237
25.111 (a) amended; (c) added ..... 62245
25.111a (b) amended..... 62245
25.111b (a) amended..... 62245
25.112 Amended..... 19883
25.113 (a) and (b) amended..... 62245
25.114 (a) and (b) amended..... 62245
25.117 Amended..... 62245
25.118 (e) amended..... 62245
25.119 Introductory text, (a) and (b) amended ..... 62245
25.125 Existing text designated as (a) and amended; (b) added..... 62245
25.131 Amended..... 62246

## 27 CFR—Continued

70 FR Page

Chapter I—Continued

25.132 Revised ..... 62246
25.134 Revised ..... 62246
26 Authority citation revised ..... 62246
26.44 Amended ..... 19883
Existing text designated as (a) and amended; (b) added ..... 62246
26.45 Revised ..... 62246
26.46 Existing text designated as (a) and amended; (b) added ..... 62246
26.163 Amended ..... 19883
26.171 Existing text designated as (a) and amended; (b) added ..... 62246
26.210 Amended ..... 19883
Existing text designated as (a) and amended; (b) added ..... 62246
26.211 Revised ..... 62247
26.272 Amended ..... 19883
26.307 Existing text designated as (a) and amended; (b) added ..... 62247
26.319 Amended ..... 19883
27 Authority citation revised ..... 49483, 62247
27.30 Amended ..... 19883
Existing text designated as (a) and amended; (b) added ..... 62247
27.31 Revised ..... 62247
27.133 Amended ..... 19883
27.140 Aded ..... 49483
27.209 Amended ..... 19883
28.3 Amended ..... 19883
31 Redesignated from Part 194; heading revised ..... 19884
Authority citation revised ..... 62247
31.1 Amended ..... 19884
31.4 Amended ..... 19884
31.11 Amended ..... 19884
31.21 Amended ..... 19884
Existing text designated as (a) and amended; (b) added ..... 62247
31.23 (a), (b) and (c) amended ..... 19884
Revised ..... 62247
31.24 (a), (b) and (c) amended ..... 19884
Revised ..... 62248
31.25 (a), (b) and (c) amended ..... 19884
Revised ..... 62248
31.26 (a), (b) and (c) amended ..... 19884
Revised ..... 62248
31.29 Amended ..... 19885
Revised ..... 62249
31.30 Amended ..... 62249
31.31 Existing text designated as (a) and amended; (b) added ..... 62249
31.32 Amended ..... 62249
31.33 Existing text designated as (a) and amended ..... 62249
31.34 Amended ..... 62249

## 27 CFR—Continued

70 FR Page

Chapter I—Continued

31.35 Revised ..... 62249
31.41 (a) amended; (b) revised ..... 19884
31.42 Amended ..... 19885
31.51 Amended ..... 19885
Revised ..... 62249
31.53 Amended ..... 62249
31.54 Amended ..... 19885
Revised ..... 62249
31.55 (c) amended ..... 19885
Revised ..... 62250
31.56 Amended ..... 19885, 62250
31.57 Amended ..... 62250
31.58 Amended ..... 62250
31.59 Amended ..... 62250
31.71 Amended ..... 19885
Existing text designated as (a) and amended; (b) added ..... 62250
31.72 (b) amended ..... 19885
(b) revised ..... 62250
31.91 Revised ..... 62250
31.92 Revised ..... 62250
31.93 Revised ..... 62251
31.94 Amended ..... 19885, 62251
31.101 (b) existing text redesignated as (b)(1) and amended; (b)(2) added ..... 62251
31.102 Revised ..... 62251
31.104 Amended ..... 19885, 62251
31.104a Amended ..... 19885, 62251
31.105 Amended ..... 19885
31.106 (a), (b) and (c) amended ..... 19885
(a), (b)(5) and (c) revised ..... 62251
31.107 Amended ..... 19885
31.109 Amended ..... 19885
(a) amended ..... 62251
31.110 (b) amended ..... 19885
31.111 Amended ..... 19885
31.121 Amended ..... 19885
(a) revised ..... 62251
31.121a Amended ..... 19885
31.123 Amended ..... 19885
31.124 Amended ..... 19885
Revised ..... 62251
31.125 Amended ..... 19885
Revised ..... 62252
31.126 Amended ..... 19885
Revised ..... 62252
31.127 Amended ..... 19885
Heading revised; existing text designated as (a) and amended; (b) added ..... 62252
31.131 Amended ..... 19885, 62252
31.132 Amended ..... 19885
31.133 Amended ..... 19885
31.134 Amended ..... 19885
31.135 Amended ..... 19885

## 27 CFR—Continued

70 FR
Page

Chapter I—Continued

31.136 Amended.....19885, 62252
31.137 Amended.....19885
31.138 Amended.....19885
31.139 Amended.....19885
31.151 (a) and (b) amended.....19885
(a) existing text redesignated as (a)(1) and amended; (a)(2) added .....62252
31.152 Amended.....19885
Existing text designated as (a) and amended; (b) added.....62253
31.153 Amended.....19885
31.161 Amended.....19885, 62253
31.162 Revised.....62253
31.163 Revised.....62253
31.164 Amended.....62253
31.165 Amended.....62253
31.166 Amended.....62253
31.167 Amended.....62253
31.168 Amended.....62253
31.169 Amended.....19886
Introductory text and concluding text amended.....62253
31.170 Amended.....19886
Existing text designated as (a) and amended; (b) added.....62253
31.181 Amended.....62253
31.182 (a) and (b) amended.....19886, 62253
31.183 (a) and (b) amended.....19886
(a), (b) and (c) amended.....62253
31.183a (a) and (b) amended.....19886
(a), (b) and (c) amended.....62254
31.184 (a) and (b) amended.....19886
(a), (b) and (d) amended.....62254
31.185 (a) and (b) amended.....62254
31.186 Amended.....62254
31.187 Amended.....62254
31.187a Amended.....19886, 62254
31.187b Amended.....19886
31.188 Concluding text amended.....62254
31.189 Concluding text amended.....62254
31.190 Amended.....62254
31.191 (b) amended.....62254
31.193 Amended.....19886
31.201 Amended.....19886
31.211 Amended.....19886
(a) introductory text amended; (b) redesignated as (c); new (b) added.....62254
31.221 Amended.....19886
31.222 Amended.....19886
31.223 Amended.....19886
31.227 Amended.....19886
31.228 Amended.....19886

## 27 CFR—Continued

70 FR
Page

Chapter I—Continued

31.229 (a) amended.....19887
31.230 (a) and (d) amended.....19887
31.232 Amended.....19887
31.233 (a), (b) and (c) amended.....19887
31.234 (a) amended.....19887
31.235 Amended.....19887
31.236 Amended.....19887
31.237 Amended.....19887
31.262 Amended.....19887
31.264 Amended.....19887
31.271 (a), (b) and (c) amended.....19887
31.292 Amended.....19887
31.293 Amended.....19887

# 2006

## 27 CFR

71 FR
Page

Chapter I

1.3 (a) amended; (b) revised.....16920
1.4 Revised.....16920
1.10 Amended.....16920
1.24 Introductory text amended.....16920
1.25 Amended.....16920
1.27 Amended.....16920
1.31 Amended.....16920
1.35 Amended.....16920
1.42 Amended.....16920
1.50 Amended.....16920
1.51 Amended.....16920
1.52 Amended.....16920
1.55 Amended.....16920
1.56 (b) amended.....16920
1.58 Amended.....16920
1.59 Introductory text and (c) amended.....16920
4.3 (a) amended; (b) revised.....16920
4.4 Revised.....16920
4.10 Amended.....16921
4.21 (b)(3)(ii) and (iii) amended.....16921
4.23 (c)(2) introductory text and (e) amended.....16921
4.24 (a)(1), (b)(1), (c)(1) and (3) amended.....16921
4.25 (e)(2) amended.....16921
4.30 (b)(1) amended.....16921
4.32a Added; interim.....42267
4.32b Added; interim.....42267
4.33 (b) amended.....16921
4.37 (c) amended.....16921
4.38 (h) amended.....16921
4.39 (a)(4), (5), (d), (g), (i)(2)(iii), (3) and (j) amended.....16921
4.40 (a), (b) and (c) amended.....16921
4.50 (a) and (b) amended.....16921
4.52 Amended.....16921

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

4.64 (a)(4) and (5) amended ..... 16921
4.91 Introductory text amended ..... 16921
4.93 (a) introductory text, (c) introductory text, (d) and (e) amended ..... 16921
5.3 (a) amended; (b) revised ..... 16921
5.4 Revised ..... 16921
5.11 Amended ..... 16921
5.22 (k)(1), (2) and (l)(2) amended ..... 16922
5.23 (a)(2) amended ..... 16922
5.26 (b) amended ..... 16922
5.28 Introductory text amended ..... 16922
5.32a Added; interim ..... 42268
5.32b Added; interim ..... 42268
5.33 (g) amended ..... 16922
5.34 (a) amended ..... 16922
5.35 (a) amended ..... 16922
5.36 (d) amended ..... 16922
5.38 (b) and (c) amended ..... 16922
5.42 (a)(4), (5) and (b)(7) amended ..... 16922
5.46 (d)(1) amended ..... 16922
5.51 (a) through (d) amended ..... 16922
5.55 (a), (b) and (c) amended ..... 16922
5.65 (a)(4), (5) and (g) amended ..... 16922
6.5 Revised ..... 16922
6.6 (a) through (c)(3) amended ..... 16922
6.11 Amended ..... 16922
7.3 (a) amended; (b) revised ..... 16922
7.5 Revised ..... 16922
7.10 Amended ..... 16923
7.20 (c)(1) amended ..... 16923
7.22a Added; interim ..... 42269
7.22b Added; interim ..... 42269
7.23 (b) amended ..... 16923
7.24 (g) amended ..... 16923
7.25 (a)(1) amended ..... 16923
7.29 (a)(4), (5) and (d) amended ..... 16923
7.31 (a), (b) and (c) amended ..... 16923
7.41 (a) amended ..... 16923
7.54 (a)(4) and (5) amended ..... 16923
8.5 Revised ..... 16923
8.6 (a) through (c)(3) amended ..... 16923
8.11 Amended ..... 16923
9.3 (a) amended ..... 16923
9.11 Amended ..... 16923
9.32 (a) revised ..... 66455
9.46 (b) and (c) revised ..... 34531
9.59 (c)(13) revised; (c)(14) through (19) redesignated as (c)(16) through (21); new (c)(14) and (15) added ..... 34527

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

9.75 (b) introductory text and (c)(10) through (16) revised; (b)(40) and (41) amended; (b)(42) and (43) added ..... 34524
9.139 (c)(9) and (10) revised; (c)(11) through (21) redesignated as (c)(12) through (22); new (c)(11) added ..... 34527
9.157 (b) introductory text and (c)(13) through (18) revised; (b)(41) and (42) amended; (b)(43) added ..... 34524
9.187 Added ..... 8205
9.193 Added ..... 8211
9.194 Added ..... 33242
9.195 Added ..... 40414
9.196 Added ..... 40414
9.197 Added ..... 40414
9.198 Added ..... 40414
9.199 Added ..... 40414
9.200 Added ..... 40414
9.201 Added ..... 40414
9.202 Added ..... 40404
9.203 Added ..... 40400
9.204 Added ..... 65411
9.205 Added ..... 68462
9.206 Added ..... 68471
10.5 Revised ..... 16923
10.6 (a) through (c)(3) amended ..... 16924
10.11 Amended ..... 16924
11.5 Revised ..... 16924
11.6 (a) and (b) amended ..... 16924
11.11 Amended ..... 16924
12.1 Amended ..... 16924
12.3 (a) and (b) amended ..... 16924
12.31 Introductory text amended ..... 16924
13.2 Revised ..... 16924
13.11 Amended ..... 16924
13.20 (a) amended; (b) revised ..... 16924
13.21 (a) and (b) amended ..... 16925
13.22 Amended ..... 16925
13.23 Amended ..... 16925
13.25 (a) and (b) amended ..... 16925
13.26 (a) and (b) amended ..... 16925
13.27 (a), (b) and (c) amended ..... 16925
13.41 Amended ..... 16925
13.42 Amended ..... 16925
13.43 (a) and (b) amended ..... 16925
13.44 (a) and (b) amended ..... 16925
13.45 (a) and (b) amended ..... 16925
13.51 Amended ..... 16925
13.52 Amended ..... 16925
13.53 Amended ..... 16925
13.54 (a) and (b) amended ..... 16925
13.61 (a)(2), (b) and (d) amended ..... 16925

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

13.62 Amended ..... 16925
13.71 (a) and (b) amended ..... 16925
13.72 (b) amended ..... 16925
13.74 Amended ..... 16925
13.75 Heading amended ..... 16925
13.76 (a) amended ..... 16925
13.81 Amended ..... 16925
13.92 Amended ..... 16925
16.10 Amended ..... 16925
16.30 Amended ..... 16925
17.2 (a) amended; (b) revised ..... 16925
17.3 (a) introductory text, (b) and (c) amended ..... 16926
17.6 Amended ..... 16926
17.7 Revised ..... 16926
17.11 Amended ..... 16926
17.31 Amended ..... 16926
17.32 Heading and (a)(6) amended ..... 16926
17.33 Heading amended ..... 16926
17.34 Amended ..... 16926
17.41 Amended ..... 16926
17.42 (b) amended ..... 16926
17.51 (a) amended ..... 16926
17.52 Amended ..... 16926
17.53 (a) and (b) amended ..... 16926
17.54 Amended ..... 16926
17.55 Amended ..... 16926
17.62 Amended ..... 16926
17.71 (a) amended ..... 16926
17.73 Amended ..... 16926
17.92 Amended ..... 16926
17.101 Amended ..... 16926
17.106 Amended ..... 16926
17.107 Amended ..... 16926
17.108 (c) amended ..... 16926
17.111 Introductory text and (b) amended ..... 16926
17.112 Amended ..... 16926
17.113 Amended ..... 16926
17.114 Amended ..... 16926
17.121 (b) and (d) amended ..... 16926
17.122 Amended ..... 16926
17.123 Amended ..... 16926
17.125 (a) and (b) amended ..... 16926
17.126 (a) amended ..... 16926
17.127 Amended ..... 16926
17.131 Amended ..... 16926
17.132 (a) amended ..... 16926
17.133 Introductory text amended ..... 16926
17.134 Amended ..... 16926
17.135 (a)(2) amended ..... 16926
17.136 Amended ..... 16926
17.141 Amended ..... 16926
17.142 (a) and (b) amended ..... 16927

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

17.143 amended ..... 16927
17.144 Amended ..... 16927
17.147 (a) amended ..... 16927
17.151 Amended ..... 16927
17.161 Amended ..... 16927
17.164 (c) amended ..... 16927
17.166 (c) amended ..... 16927
17.167 (a) and (b) amended ..... 16927
17.168 (a) amended ..... 16927
17.170 Amended ..... 16927
17.171 Amended ..... 16927
17.182 Amended ..... 16927
17.183 (a), (b) and (c) amended ..... 16927
17.185 (c) amended ..... 16927
17.187 Amended ..... 16927
18.11 Amended ..... 16927
18.12 Revised ..... 16927
18.13 (a) introductory text and (b) amended ..... 16927
18.14 (a) introductory text, concluding text and (b) amended ..... 16927
18.15 Amended ..... 16927
18.16 (a) amended; (b) revised ..... 16927
18.17 Amended ..... 16927
18.19 Amended ..... 16927
18.22 (b) amended ..... 16927
18.24 Amended ..... 16928
18.27 (a) introductory text amended ..... 16928
18.39 Introductory text and (a) amended ..... 16928
18.40 Introductory text and (a) amended ..... 16928
18.41 Amended ..... 16928
18.42 (a) amended ..... 16928
18.52 (b) amended ..... 16928
18.61 (a) and (b) amended ..... 16928
19.4 Added ..... 16928
19.11 Amended ..... 5601
amended ..... 16928
Correctly amended ..... 25753
19.31 Amended ..... 16928
19.32 Amended ..... 16928
19.35 Amended ..... 16928
19.36 (b) amended ..... 16928
19.37 (b) amended ..... 16928
19.38 (b) amended ..... 16928
19.41 (a) introductory text, (4) and (b) introductory text amended ..... 16928
19.42 (a) introductory text amended ..... 16928
19.44 mended ..... 16928
19.46 Amended ..... 16928
19.49 (b)(2) amended ..... 16928

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

19.51 (b) heading, (6), (d) heading, (3) and (4) amended ..... 16928
19.53 (b) and (c) amended ..... 16928
19.58 (c) and (d) amended ..... 16928
19.61—19.71 Undesignated center heading removed ..... 16929
19.61 (a) amended; (b) revised..... 16929
19.62 Introductory text and (c) amended..... 16929
19.63 Amended ..... 16929
19.65 amended ..... 16929
19.66 amended ..... 16929
19.67 (a)(2), (3)(ii), (b)(1), (2)(vi) and (c) amended ..... 16929
19.68 Amended ..... 16929
19.70 Amended ..... 16929
19.71 (a) through (d) amended ..... 16929
19.72—19.79 Undesignated center heading removed ..... 16929
19.72 Amended ..... 16929
19.73 Introductory text and concluding text amended ..... 16929
19.74 Amended ..... 16929
19.75 (a) introductory text through (c)(1) and (d) amended ..... 16929
19.76 Amended ..... 16929
19.77 Amended ..... 16929
19.78 Amended ..... 16929
19.79 Amended ..... 16929
19.81—19.84 Undesignated center heading removed ..... 16930
19.81 Amended ..... 16930
19.82 Amended ..... 16930
19.83 Amended ..... 16930
19.84 Amended ..... 16930
19.86 Amended ..... 16930
19.91 (a) and (b) amended ..... 16930
19.92 (b)(10) amended..... 16930
19.96 (b)(1), (c)(2), (iii) and (d) amended..... 16930
19.98 Introductory text and (c) amended..... 16930
19.99 (c) amended ..... 16930
19.132 Amended..... 16930
19.133 (b) amended..... 16930
19.134 (a)(2), (c)(1), (2) and (d) amended..... 16930
19.151 (c) amended..... 16930
19.152 Concluding text amended ..... 16930
19.153 (b) amended..... 16930
19.155 Amended..... 16930
19.156 Amended..... 16930
19.157 (a)(7) amended..... 16930
19.158 (f) and concluding text amended..... 16930

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

19.161 Introductory text and (c) amended..... 16930
19.162 Amended..... 16930
19.163 Introductory text and (f) amended..... 16930
19.167 (c)(1) and (d) amended ..... 16930
19.168 (b)(2) amended..... 16930
19.184 Amended..... 16930
19.185 Amended..... 16930
19.187 (a) amended..... 16930
19.190 Amended..... 16930
19.193 (a), (b)(3) and (c) amended ..... 16931
19.201 (a) amended..... 16931
19.202 (a), (b) and (c) amended ..... 16931
19.203 (a), (b) introductory text and (d) amended..... 16931
19.204 (a), (b) introductory text and (d) amended..... 16931
19.205 (b) introductory text, (c) introductory text and (d) amended..... 16931
19.206 (b) introductory text, (c) introductory text and (d) amended..... 16931
19.211 Amended..... 16931
19.231 Amended..... 16931
19.236 (a) amended..... 16931
19.237 (a) introductory text and (b) amended ..... 16931
19.247 Amended..... 16931
19.250 Amended..... 16931
19.252 Amended..... 16931
19.273 (b)(3) and (c)(4) amended ..... 16931
19.274 (a)(1) and (b) amended..... 16931
19.277 (c) amended..... 16931
19.279 (a) and (b) amended..... 16931
19.281 (e) concluding text and (f) amended..... 16931
19.282 Amended..... 16931
19.311 (a) and (b) amended..... 16931
19.319 (a) amended..... 16931
19.326 Amended..... 16931
19.327 Amended..... 16931
19.329 Amended..... 16931
19.342 (b) and (c) amended..... 16931
19.347 Amended..... 16931
19.353 Amended..... 16931
19.378 Amended..... 16931
19.382 Amended..... 16931
19.385 Amended..... 16931
19.386 (a)(2) amended..... 16931
19.395 Concluding text amended ..... 16931
19.401 Amended..... 16931

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

19.402 (a)(1), (2) introductory text, (3) introductory text and (b)(1) through (d) amended ..... 16931
19.453 (a) and (b) amended ..... 16931
19.454 Amended ..... 16931
19.456 Amended ..... 16931
19.460 (e) amended ..... 16932
19.461 (c) amended ..... 16932
19.464 Amended ..... 16932
19.485 (b) amended ..... 16932
19.487 (a) amended ..... 16932
19.506 Amended ..... 16932
19.507 (b) amended ..... 16932
19.508 (b) amended ..... 16932
19.510 (a) and (c) amended ..... 16932
19.519 Amended ..... 16932
19.522 (a) revised ..... 5601
(b)(1) and (2) amended ..... 16932
19.523 (a) amended; (d) added ..... 5602
(b) amended ..... 16932
19.524 (a)(3), (b)(1), (3), (c)(1) and (e) amended ..... 16932
19.525 (a) amended ..... 16932
19.533 Amended ..... 16932
19.538 (a)(1) introductory text amended ..... 16932
19.539 Amended ..... 16932
19.540 (c)(2)(ii) and (B) amended ..... 16932
19.561 (b)(1) and (c) amended ..... 16932
19.562 (a)(2) through (e) amended ..... 16932
19.563 (a) and (b) amended ..... 16932
19.581 (b) amended ..... 16932
19.585 Amended ..... 16932
19.588 (b) amended ..... 16932
19.593 (c) amended ..... 16932
19.594 (a) amended ..... 16932
19.597 (b) and (c) amended ..... 16932
19.604 Amended ..... 16932
19.633 (a), (b) introductory text and concluding text amended ..... 16932
19.634 Amended ..... 16932
19.637 Amended ..... 16932
19.638 Amended ..... 16932
19.641 (a) amended ..... 16932
19.643 (c)(1) and (3) amended ..... 16932
19.645 (e) amended ..... 16932
19.681 (d) amended ..... 16932
19.687 Amended ..... 16932
19.691 (b) amended ..... 16932
19.701 (a), (c) and (e) amended ..... 16932
19.721 (d) amended ..... 16932
19.723 (a), (b)(1) and (c)(1) amended ..... 16932

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

19.723 (d)(3) amended ..... 16933
19.724 (a) introductory text, (2) and (b) amended ..... 16933
19.725 (a) introductory text and (b) amended ..... 16933
19.731 (b)(2)(iii) introductory text and (c)(3) amended ..... 16933
19.732 (f) amended ..... 16933
19.741 (d) amended ..... 16933
19.750 (b) introductory text amended ..... 16933
19.761 Amended ..... 16933
19.768 Introductory text amended ..... 16933
19.770 (a)(2) and (6)(i) amended ..... 16933
19.773 Introductory text and (b) amended ..... 16933
19.774 (e) amended ..... 16933
19.778 (b), (d) and (e) amended ..... 16933
19.791 Amended ..... 16933
19.792 (a) and (c) amended ..... 16933
19.822 Introductory text and concluding text amended ..... 16933
19.823 Amended ..... 16933
19.824 Amended ..... 16933
19.903 Introductory text and (c) amended ..... 16933
19.904 Introductory text and (c) amended ..... 16933
19.907 Amended ..... 16933
19.910 Amended ..... 16933
19.911 Introductory text amended ..... 16933
19.912 (a) introductory text and (2) amended ..... 16933
19.913 (a) heading, (1), (2), (b) and (c) amended ..... 16933
19.914 (a) introductory text amended ..... 16933
19.915 (a) introductory text amended ..... 16933
19.916 (b)(1) and (c) amended ..... 16933
19.917 Amended ..... 16933
19.918 Amended ..... 16933
19.919 Amended ..... 16933
19.921 (c) amended ..... 16933
19.930 (a)(1)(ii), (b) introductory text and (4) amended ..... 16933
19.945 Introductory text amended ..... 16933
19.950 Introductory text and (f) amended ..... 16934
19.955 Amended ..... 16934
19.565 Revised ..... 5602
19.967 Introductory text amended ..... 16934

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

19.970 Amended ..... 16934
19.703 (a) amended ..... 5602
19.980 (a) amended ..... 16934
19.982 (c)(1) and (3) amended ..... 16934
19.987 Amended ..... 16934
19.988 Amended ..... 16934
19.1001 (a) and (c) amended ..... 16934
19.1005 (a) and (b) amended ..... 16934
19.1006 Amended ..... 16934
20.11 Amended ..... 16934
20.20 Revised ..... 16934
20.21 (a) amended; (b) revised ..... 16934
20.22 (a)(1), (2) heading and introductory text, (3), (b)(1), (2) heading and introductory text, (3) and (c) amended ..... 16934
20.23 Amended ..... 16934
20.24 Amended ..... 16934
20.25 Amended ..... 16934
20.27 Amended ..... 16935
20.28 (a) and (b) amended ..... 16935
20.37 Amended ..... 16935
20.38a (a), (b) heading, (6), (c)(1), (2), (d) heading, (3) and (4) amended ..... 16935
20.40 (a), (b) and (c) amended ..... 16935
20.40a (a), (b)(2) and (d) amended ..... 16935
20.41 (c) introductory text amended ..... 16935
20.42 (a)(11) and (b) amended ..... 16935
20.43 (a) introductory text, (2) and (b) amended ..... 16935
20.44 Introductory text amended ..... 16935
20.45 (c)(1) amended ..... 16935
20.45—20.55 Undesignated center heading amended ..... 16935
20.48 (b) and (c) amended ..... 16935
20.50 Amended ..... 16935
20.51 Introductory text amended ..... 16935
20.56 (a)(1), (b), (c)(1) and (3) amended ..... 16935
20.57 (b)(1) and (2) amended ..... 16935
20.60 Amended ..... 16935
20.61 Amended ..... 16935
20.62 Amended ..... 16935
20.63 (a) and (b) amended ..... 16935
20.64 Amended ..... 16935
20.68 (a) introductory text amended ..... 16935
20.91 (a) and (c) amended ..... 16935
20.92 (a), (b), and (c) introductory text amended ..... 16935
20.100 (a) introductory text and (b) amended ..... 16935

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

20.103 Amended ..... 16935
20.111 (a) and (b) amended ..... 16935
20.117 (d)(2)(iv) amended ..... 16935
20.132 (c) amended ..... 16935
20.133 (a) introductory text and (b) amended ..... 16935
20.134 (b)(1)(ii) and (c) amended ..... 16935
20.144 Amended ..... 16935
20.147 (b) amended ..... 16935
20.161 (c)(3) amended ..... 16935
20.163 (c)(2) amended ..... 16935
20.164 (e) amended ..... 16935
20.166 Amended ..... 16935
20.170 Amended ..... 16935
20.178 (a) introductory text and (c)(1) amended ..... 16935
20.181 (a) amended ..... 16935
20.182 (a) amended ..... 16936
20.190 Amended ..... 16936
20.191 Amended ..... 16936
20.202 (a) amended ..... 16936
20.204 (b) amended ..... 16936
20.205 (f) amended ..... 16936
20.211 (b) amended ..... 16936
20.213 (a) and (b) amended ..... 16936
20.234 (b)(3) amended ..... 16936
20.235 (c) amended ..... 16936
20.244 Amended ..... 16936
20.245 Amended ..... 16936
20.246 Amended ..... 16936
20.252 (a) and (b) amended ..... 16936
20.261 Amended ..... 16936
20.262 (c) and (d) amended ..... 16936
20.263 (c) and (d) amended ..... 16936
20.265 (a) introductory text and (b) amended ..... 16936
20.267 (a) and (c) amended ..... 16936
21.2 (a) amended; (b) revised ..... 16936
21.3 (b), (c) and (d) amended ..... 16936
21.5 Introductory text amended ..... 16936
21.7 Revised ..... 16936
21.11 Amended ..... 16936
21.21 (b) amended ..... 16936
21.21 (c) amended ..... 16937
21.31 (b) and (c) amended ..... 16937
21.33 (c) amended ..... 16937
21.34 (c) amended ..... 16937
21.56 (a) amended ..... 16937
21.65 (a) amended ..... 16937
21.91 Amended ..... 16937
21.123 Amended ..... 16937
21.141 Footnote 2 amended ..... 16937
22.11 Amended ..... 16937
22.20 Revised ..... 16937

## 27 CFR—Continued

71 FR Page

Chapter I—Continued


22.21 (a) amended; (b) revised.....16937
22.22 (a)(1), (2) heading and introductory text, (3), (4), (b)(1), (2) heading and introductory text, (3) and (c) amended.....16937
22.23 Amended.....16937
22.24 (a) and (b) amended.....16937
22.25 Amended.....16937
22.26 (a) and (b) amended.....16937
22.36 Amended.....16937
22.38 (a), (b) heading, (6), (c)(1), (2), (d) heading, (3) and (4) amended.....16937
22.39 (a), (b) and (c) amended.....16937
22.40 (a), (b)(2) and (d) amended.....16938
22.41 (b) introductory text amended.....16938
22.42 (a)(11) and (b) amended.....16938
22.43 (a) introductory text, (2) and (b) amended.....16938
22.44 Introductory text amended.....16938
22.45 (c)(1) amended.....16938
22.48—22.55 Undesignated center heading amended.....16938
22.50 Amended.....16938
22.51 Introductory text amended.....16938
22.57 (a)(1), (b), (c)(1) and (3) amended.....16938
22.58 (b)(1) and (2) amended.....16938
22.61 Amended.....16938
22.62 Amended.....16938
22.63 Amended.....16938
22.64 (b) amended.....16938
22.68 Introductory text amended.....16938
22.102 (c) introductory text amended.....16938
22.103 Amended.....16938
22.111 (c)(3) amended.....16938
22.113 (a) and (c) amended.....16938
22.122 (a) amended.....16938
22.124 (b) amended.....16938
22.125 (c) amended.....16938
22.142 (a)(1), (2), (c) and (d) amended.....16938
22.154 (b)(3) amended.....16938
22.155 (a) amended.....16938
22.161 (a) and (d) amended.....16938
22.162 Amended.....16938
22.164 (a) amended.....16938
22.171 (a) amended.....16938
22.174 Amended.....16938
22.175 Amended.....16938


## 27 CFR—Continued

71 FR Page

Chapter I—Continued


22.176 Amended.....16938
24.10 Amended.....5602
Amended.....16938
24.19 Revised.....16938
24.20 (a) amended; (b) revised.....16938
24.21 (a) introductory text, (b) and (c) amended.....16939
24.22 (a) introductory text, (b) and (c) amended.....16939
24.25 (a) introductory text, (b), (c) and (d) amended.....16939
24.26 Amended.....16939
24.27 Amended.....16939
24.28 Amended.....16939
24.29 Amended.....16939
24.30 Amended.....16939
24.31 Amended.....16939
24.32 Amended.....16939
24.35 Amended.....16939
24.36 Amended.....16939
24.37 Amended.....16939
24.40 Amended.....16939
24.41 Amended.....16939
24.50 (b) amended.....16939
24.52 (a) and (b) amended.....16939
24.53 (a), (b) heading, (6), (c)(1), (2), (d) heading, (3) and (4) amended.....16939
24.54 (b) and (c) amended.....16939
24.55 (a) amended.....16939
24.60 Amended.....16939
24.62 Amended.....16939
24.65 (a) introductory text, (b) introductory text and (c) introductory text amended.....16939
24.66 (a) amended.....16939
24.69 (a) introductory text and (b) amended.....16939
24.70 Amended.....16939
24.75 (f) amended.....16939
24.77 (b) and (c) amended.....16939
24.77 (d) and (e) amended.....16940
24.80 Amended.....16940
24.81 Amended.....16940
24.82 Amended.....16940
24.86 Amended.....16940
24.87 Amended.....16940
24.91 Introductory text and (c) amended.....16940
24.96 (a) amended.....16940
24.103 Amended.....16940
24.105 Amended.....16940
24.106 Amended.....16940
24.107 Amended.....16940
24.108 Amended.....16940
24.109 Introductory text and (k) amended.....16940

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

24.110 (c)(1) and (d) amended ..... 16940
24.111 Amended ..... 16940
24.112 Amended ..... 16940
24.113 Amended ..... 16940
24.115 Amended ..... 16940
24.116 Amended ..... 16940
24.117 Amended ..... 16940
24.120 Amended ..... 16940
24.123 Amended ..... 16940
24.124 Amended ..... 16940
24.125 (c) amended ..... 16940
24.127 Amended ..... 16940
24.131 Amended ..... 16940
24.135 (b)(1), (4), (c), (d) and (e) amended ..... 16940
24.136 (d) amended ..... 16940
24.137 (a), (b)(1), (3) and (c) amended ..... 16940
24.140 (a), (b)(3) concluding text and (c) amended ..... 16940
24.141 Amended ..... 16940
24.145 Amended ..... 16940
24.146 (a), (b) and (c) amended ..... 16940
24.148 (b) amended ..... 16940
24.150 Amended ..... 16940
24.154 Amended ..... 16940
24.155 (a) introductory text and (b) amended ..... 16940
24.157 Amended ..... 16940
24.159 Amended ..... 16940
24.165 Amended ..... 16940
24.166 Amended ..... 16940
24.167 (a) amended ..... 16940
24.169 Amended ..... 16940
24.170 (a) and (b) amended ..... 16940
24.176 (b) amended ..... 16940
24.183 Amended ..... 16940
24.191 Amended ..... 16940
24.197 Amended ..... 16940
24.230 Amended ..... 16940
24.231 Amended ..... 16940
24.235 (b) amended ..... 16940
24.236 Amended ..... 16940
24.237 Amended ..... 16940
24.242 (a) introductory text, (b), (c)(1) introductory text and (2) amended ..... 16941
24.245 Amended ..... 16941
24.246 (a)(1) amended ..... 16941
24.247 Introductory text amended ..... 16941
24.248 Introductory text amended ..... 16941
24.249 (a), (b) and (c) amended ..... 16941
24.250 (a), (b)(9), (c) and (d) amended ..... 16941

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

24.257 (c)(2)(i) amended ..... 16941
24.259 (c) amended ..... 16941
24.260 Amended ..... 16941
24.265 Amended ..... 16941
24.266 (a) amended ..... 16941
24.267 Amended ..... 16941
24.268 Amended ..... 16941
24.271 Heading, (a), (b) and (c) heading revised; (c)(1) and (i) headings added ..... 5602
24.272 (b)(1), (3), (c)(1) and (e) amended ..... 16941
24.273 Revised ..... 5602
24.275 (a) introductory text, concluding text and (b)(1) amended ..... 16941
24.276 Amended ..... 16941
24.277 (a) amended ..... 16941
24.278 (f) and (h) amended ..... 16941
24.279 (a) amended ..... 16941
24.291 (c) amended ..... 16941
24.292 (b) amended ..... 16941
24.293 (b) amended ..... 16941
24.294 (a) and (b) amended ..... 16941
24.295 (b) amended ..... 16941
24.296 (a) and (b) amended ..... 16941
24.300 (g) revised ..... 5603
(b), (d) and (e)(3) amended ..... 16941
24.303 (d) amended ..... 16941
24.304 (a) introductory text and (b) amended ..... 16941
24.308 (b) amended ..... 16941
24.313 Amended ..... 5603
Introductory text and (d) amended ..... 16941
24.314 Amended ..... 16941
24.316 Amended ..... 16941
24.323 Amended ..... 16941
25.3 (a) amended; (b) revised ..... 16941
25.6 Heading and text revised ..... 16941
25.11 Amended ..... 16942
25.22 Amended ..... 16942
25.23 (b) introductory text and (c) amended ..... 16942
25.24 (a)(7) amended ..... 16942
25.25 (a) and (b) amended ..... 16942
25.31 Amended ..... 16942
25.42 (a) introductory text and (c) amended ..... 16942
25.51 Amended ..... 16942
25.52 (a)(1) introductory text, (2), (3), (b) introductory text, (3) and (d) amended ..... 16942
25.61 (a) and (c) amended ..... 16942
25.62 (b) amended ..... 16942
25.63 Amended ..... 16942

## 27 CFR—Continued

71 FR Page

Chapter I—Continued


25.64 Amended ..... 16942
25.66 (c)(1) and (d) amended ..... 16942
25.68 (b) amended ..... 16942
25.71 (a)(2) and (b)(1) amended ..... 16942
25.72 (b)(2) amended ..... 16942
25.74 Amended ..... 16942
25.75 Amended ..... 16942
25.77 Amended ..... 16942
25.81 (b)(1), (c) and (e) amended ..... 16942
25.85 Amended ..... 16942
25.91 (c) and (d) amended ..... 16942
25.93 (a) revised ..... 5603
Amended ..... 16942
25.96 Amended ..... 16942
25.101 (a) introductory text and (b) amended ..... 16942
25.103 Amended ..... 16942
25.104 Amended ..... 16942
25.105 Amended ..... 16942
25.114 (a) amended ..... 16942
25.117 Amended ..... 16942
25.118 Heading and (f) amended ..... 16942
25.119 (a) amended ..... 16942
25.119 (b) amended ..... 16943
25.120 Heading, (c) and (d) amended ..... 16943
25.125 (a) amended ..... 16943
25.127 Amended ..... 16943
25.141 (b)(2) amended ..... 16943
25.142 (b)(2) and (c) amended ..... 16943
25.144 (b) introductory text amended ..... 16943
25.152 (a) Concluding text amended ..... 16943
25.155 Amended ..... 16943
25.158 (c) amended ..... 16943
25.164 Heading, (c) and (d) revised; (a), (e)(1) and (2) amended ..... 5603
25.164a Heading and (a)(1) revised ..... 5604
25.165 (b)(1), (3), (c)(1) and (e) amended ..... 16943
25.166 (a) amended ..... 5604
25.167 (a) amended ..... 16943
25.173 (a) amended ..... 16943
25.182 Amended ..... 16943
25.184 (d) amended ..... 16943
25.196 (b) amended ..... 16943
25.213 (b) introductory text and (c) amended ..... 16943
25.222 (a) and (b) amended ..... 16943
25.223 (a) and (b) amended ..... 16943
25.225 (b)(2) amended ..... 16943
25.251 (c) amended ..... 16943
25.252 (c) amended ..... 16943


## 27 CFR—Continued

71 FR Page

Chapter I—Continued


25.272 (a) introductory text and (b) through (e) amended ..... 16943
25.273 Amended ..... 16943
25.274 (a) amended ..... 16943
25.276 (c) amended ..... 16943
25.277 Amended ..... 16943
25.281 (c) amended ..... 16943
25.282 (b) through (f) amended ..... 16943
25.283 (d) amended ..... 16943
25.284 (b) and (d) amended ..... 16943
25.286 (a) amended ..... 16943
25.291 (c)(2)(ii) and (d)(3) amended ..... 16943
25.294 (c) amended ..... 16943
25.297 (b)(4) amended ..... 16943
25.300 (a), (c) and (d)(3) amended ..... 16943
26.2 (a) amended; (b) revised ..... 16943
26.3 Revised ..... 16944
26.11 Amended ..... 5604
26.37 Revised ..... 16944
26.40 (e) amended ..... 16944
26.43 Amended ..... 16944
26.44 (a) amended ..... 16944
26.46 (a) amended ..... 16944
26.47 Amended ..... 16944
26.50 (a) and (b) amended ..... 16944
26.50a (a), (b) introductory text and (2) introductory text amended ..... 16944
26.51 (b)(2) amended ..... 16944
26.52 (b) and (c) amended ..... 16944
26.54 Amended ..... 16944
26.62a Amended ..... 16944
26.65 Amended ..... 16944
26.66 Heading, (a) and (b) amended ..... 16944
26.68a Amended ..... 16944
26.70 Amended ..... 16944
26.70a Amended ..... 16944
26.71 (c) and (d) amended ..... 16944
26.72 Amended ..... 16944
26.74 Amended ..... 16944
26.75 Amended ..... 16944
26.76 Amended ..... 16944
26.78 Amended ..... 16944
26.79 Introductory text and (a) amended ..... 16944
26.80 (a) and (b) amended ..... 16944
26.81 (a), (b) and (c) amended ..... 16944
26.87 Amended ..... 16944
26.95 (b) amended ..... 16944
26.96 (a), (b) and (c) amended ..... 16944
26.104 (b) amended ..... 16944
26.105 (a), (b) and (c) amended ..... 16945
26.108 Heading amended ..... 16945

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

26.110 Amended ..... 16945
26.112 Heading, (b) and (d) heading revised; (d)(1) heading added ..... 5604
(a), (c)(1), (4) and (e) amended ..... 16945
26.112a (b)(1), (3), (c)(1) and (e) amended ..... 16945
26.113 (c), (d) and (e) amended ..... 16945
26.116 Amended ..... 16945
26.119 Amended ..... 16945
26.126 Amended ..... 16945
26.128 Amended ..... 16945
26.165 (a) introductory text and (1) amended ..... 16945
26.172 (b) amended ..... 16945
26.173 (a), (c) introductory text and (2)(viii) amended ..... 16945
26.174 (a) and (e) amended ..... 16945
26.193 (b) amended ..... 16945
26.194 (a) and (b) amended ..... 16945
26.197 Amended ..... 16945
26.199 Amended ..... 16945
26.199a (a) amended ..... 16945
26.199b Amended ..... 16945
26.199c Amended ..... 16945
26.199d Introductory text and (b) amended ..... 16945
26.199f (a) amended ..... 16945
26.204a (b) introductory text amended ..... 16945
26.205 (a)(8)(iv) amended ..... 16945
26.209 Amended ..... 16945
26.210 (a) amended ..... 16945
26.220 (a) and (b) amended ..... 16945
26.221 (b)(2) amended ..... 16945
26.222 (b) and (c) amended ..... 16945
26.224 Amended ..... 16945
26.275 (a) amended ..... 16945
26.276 Amended ..... 16945
26.303 Amended ..... 16945
26.305 Amended ..... 16945
26.308 (b) amended ..... 16945
26.309 (a) and (c) introductory text amended ..... 16945
26.310 (a) and (e) amended ..... 16945
26.314 (a), (b) introductory text and concluding text amended ..... 16945
26.316 Amended ..... 16945
26.318 Amended ..... 16945
26.319 Amended ..... 16945
26.331 (a) introductory text, (b) introductory text and concluding text amended ..... 16945
27.2 (a) amended; (b) revised ..... 16946
27.3 Revised ..... 16946

## 27 CFR—Continued

71 FR Page

Chapter I—Continued

27.11 Amended ..... 16946
27.30 (a) amended ..... 16946
27.58 Amended ..... 16946
27.59 Amended ..... 16946
27.76 (a) and (b) introductory text amended ..... 16946
27.77 (b) introductory text and (d) amended ..... 16946
27.136 (a) amended ..... 16946
27.137 Amended ..... 16946
27.171 Amended ..... 16946
27.172 Amended ..... 16946
27.175 Amended ..... 16946
27.181 (a) amended ..... 16946
27.182 (b)(1) and (d) amended ..... 16946
27.204 (a), (b) introductory text and concluding text amended ..... 16946
27.206 Amended ..... 16946
27.208 Amended ..... 16946
27.209 Amended ..... 16946
27.221 (a) introductory text, (b) introductory text and concluding text amended ..... 16946
28.4 Revised ..... 16946
29.42 Revised ..... 16947
29.43 (a) amended; (b) revised ..... 16947
29.45 Amended ..... 16947
29.47 (a) and (c) amended ..... 16947
29.49 (a), (b) and (c) amended ..... 16947
29.55 (a) and (c) amended ..... 16947
29.59 Amended ..... 16947
30.1 (c) amended ..... 16947
30.11 Amended ..... 16947
30.21 (c) amended ..... 16947
30.24 (a) and (b) amended ..... 16947
30.31 (b) amended ..... 16947
30.36 Amended ..... 16947
30.43 Amended ..... 16947
30.51 Amended ..... 16947
31.11 Amended ..... 16947
31.42 Amended ..... 16948
31.43 Added ..... 16948
31.55 (c) amended ..... 16948
31.94 Amended ..... 16948
31.131 Amended ..... 16948
31.135 Amended ..... 16948
31.136 Amended ..... 16948
31.137 Amended ..... 16948
31.138 Amended ..... 16948
31.223 Amended ..... 16948
31.230 (d) amended ..... 16948
31.234 (a) amended ..... 16948
31.236 Amended ..... 16948
31.237 Amended ..... 16948

## 2007

### 27 CFR

72 FR
Page

Chapter I

9.57 Heading, (a), (b) introductory text and (c) introductory text revised; (d) added; eff. 4–23–07 ..... 13692
9.207 Added ..... 6167
9.208 Added; eff. 4–9–07 ..... 10602
24.148 Revised ..... 65454
24.246 Table amended ..... 51709
24.278 Revised ..... 65454
24.279 Revised ..... 65455

## 2008

(Regulations published from January 1, 2008, through April 1, 2008)

### 27 CFR

73 FR
Page

Chapter I

9.53 (c) heading and (5) revised; (c)(6) through (44) redesignated as (c)(9) through (47); new (c)(6), (7) and (8) added; eff. 4–10–08 ..... 12877
9.157 (b) introductory text, (c) introductory text and (24) revised; (b)(42) and (43) amended; (c)(25) through (38) redesignated as (c)(31) through (44); (b)(44) through (47) and new (c)(25) through (30) added ..... 12880
9.210 Added; eff. 4–10–08 ..... 12874