

§ 1.20

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 non-industrial use.

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

[T.D. ATF-373, 61 FR 26098, May 24, 1996. Re-designated and amended by T.D. ATF-416, 64 FR 49985, Sept. 15, 1999]

Subpart C—Basic Permits

EDITORIAL NOTE: Nomenclature changes appear at 64 FR 49985, Sept. 15, 1999.

27 CFR Ch. I (4-1-00 Edition)

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 ATF officer if the applicant proves to the satisfaction of the appropriate ATF 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 ATF 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 ATF 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 ATF 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 ATF officer has reason to believe that the applicant is not entitled to such a permit, the appropriate ATF officer shall institute proceedings for the denial of the application in accordance