

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 Director.
- 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.

Pt. 24

27 CFR Ch. I (4–1–01 Edition)

- 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.

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 24.2

- 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 check, cash, or money order.
- 24.272 Payment of tax by electronic fund transfer.
- 24.273 Exception to filing semi-monthly 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, 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.

§ 24.4

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 18—Production of Volatile Fruit-Flavor Concentrates.

27 CFR Part 19—Distilled Spirits Plants.

27 CFR Part 30—Gauging Manual.

27 CFR Part 170—Miscellaneous Regulations Relating to Liquor.

27 CFR Part 194—Liquor Dealers.

27 CFR Part 200—Rules of Practice in Permit Proceedings.

27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.

27 CFR Part 251—Importation of Distilled Spirits, Wines and Beer.

27 CFR Part 252—Exportation of Liquors.

31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Subpart B—Definitions

§ 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).

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 sec-

27 CFR Ch. I (4-1-01 Edition)

tion 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 ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.5, Delegation Order—Delegation of the Director’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 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. The Director, Bureau of Alcohol, Tobacco and Firearms (ATF), the Department of the Treasury, Washington, DC.

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

§ 24.19

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.

Unmerchtable 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

27 CFR Ch. I (4-1-01 Edition)

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]

Subpart C—Administrative and Miscellaneous Provisions

AUTHORITIES

§ 24.19 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 24 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.5, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 24—Wine. ATF delegation orders, such as ATF Order 1130.5, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 24.20 Forms prescribed.

(a) The appropriate ATF 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 may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>). (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

[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]

§ 24.21 Modified forms.

(a) *General.* The appropriate ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF officer may approve an alternate method or procedure, subject to stated conditions, when in the judgment of the appropriate ATF 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 ATF 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 ATF 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 ATF 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

§ 24.25 Emergency variations from requirements.

(a) *General.* The appropriate ATF 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 ATF 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 ATF officer and request temporary approval until the written application, required by paragraph (b) of this section, is acted upon. The appropriate ATF officer will be a subordinate of the ATF 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 ATF 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 ATF officer the revenue is jeopardized or the effective ad-

27 CFR Ch. I (4-1-01 Edition)

ministration 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 ATF 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))

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[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 ATF 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 ATF 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]

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 24.36

§ 24.29 Claims.

The appropriate ATF 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 ATF officer may require that operations on wine premises be supervised by any number of appropriate ATF 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 ATF officer may require the proprietor to submit to an appropriate ATF 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 ATF 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 record-keeping 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 ATF 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 ATF 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 ATF 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,

§ 24.37

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 ATF 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 ATF 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 ATF officer may require the proprietor to furnish temporarily a suitable work area, desk and equipment necessary for the use of appropriate ATF 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 ATF officer.

[T.D. ATF-409, 64 FR 13684, Mar. 22, 1999]

27 CFR Ch. I (4-1-01 Edition)

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.* 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.* 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, ATF 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)

(Approved by the Office of Management and Budget under control numbers 1512-0472 and 1512-0492)

§ 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.

(b) *Reduced rate for small proprietors.* 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)

§ 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 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 ATF 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 under this section.

(b) *Place of exemption.* Unless the proprietor has claimed the exemption elsewhere, it will be presumed that the ex-

emption 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 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 ATF 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 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 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 as a wholesale dealer.

(d) *Wholesaler’s special (occupational) tax.* A wholesale dealer in liquors who has paid the appropriate special (occupational) tax as provided in part 194 of this chapter will not again be required to pay special (occupational) tax 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]

§ 24.53 Special (occupational) tax returns.

(a) *General.* Special (occupational) tax is paid by filing ATF F 5630.5, Special Tax Registration and Return, with payment of tax, in accordance with the instructions on the form.

(b) *Preparation of ATF 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.
- (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 ATF 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 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, ATF F 5630.5, with payment of 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 ATF 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. The original of the list will

be filed with ATF 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 ATF 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 ATF office where the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF 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)

§ 24.54 Special (occupational) tax stamps.

(a) *Issuance of special (occupational) tax stamps.* Upon filing a properly executed return on ATF F 5630.5, together with the 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).

(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 ATF 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 ATF 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]

§ 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 ATF 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.

(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 pay a new special (occupational) tax and obtain the required special (occupational) 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 (occupational) tax was paid, 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 ATF F 5630.5 with ATF, which shows the basis of succession. 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.

(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.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF 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 pay a new special (occupational) tax and obtain a new special (occupational) tax stamp. (26 U.S.C. 5143, 7011)

(Approved by the Office of Management and Budget under control numbers 1512-0472 and 1512-0492)

ASSESSMENTS

§ 24.60 General.

Where the appropriate ATF 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 ATF 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 ATF 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 ATF 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

§ 24.66

27 CFR Ch. I (4-1-01 Edition)

with the appropriate ATF 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 ATF 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 ATF 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 unmerchanted United States wine returned to bonded wine premises will be filed with the appropriate ATF 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:

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 24.70

(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 252.

(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 van-

dalism 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]

§ 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 ATF 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 ATF 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 ATF officer, make an adjusting entry

§ 24.75

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 judgments, 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF officers. No reports concerning wine or wine spirits need be filed unless required by appropriate ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF F 5120.29.

§ 24.82

After a change in formula is approved, the original formula must be surrendered to the appropriate ATF 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 ATF officer may at any time require the proprietor to file a statement of process in addition to that required by the ATF 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 ATF 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

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 ATF 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 ATF 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 ATF 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 ATF F 5530.5, Formula and Process for Nonbeverage Product. Essences made under an approved formula on ATF F 5530.5 will be described on ATF 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 ATF 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 ATF 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 ATF 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

27 CFR Ch. I (4-1-01 Edition)

§ 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 ATF 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 ATF 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 ATF officer. The application must specifically describe the operation to be conducted and the wine premises and equipment to be used. An appropriate ATF 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 ATF 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

§ 24.106

application on ATF F 5120.25, Application to Establish and Operate Wine Premises. Approval of ATF 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 ATF 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, 5351))

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[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

27 CFR Ch. I (4-1-01 Edition)

application for a basic permit will be filed at the time of filing an original or amended application on ATF 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, ATF 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 ATF 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 ATF 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 ATF 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 descrip-

tion 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 ATF 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 ATF 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 ATF 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

§ 24.111

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 ATF officer (such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations) must be made available to any appropriate ATF 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 ATF 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 ATF 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, ATF 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 ATF F 5120.25 application a step-by-step description of the production procedure to be employed.

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 24.120

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 170 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 170.55, 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]

§ 24.115 Registry number.

Upon approval of the application, the appropriate ATF 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 con-

tainers 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 ATF 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 ATF 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 ATF 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 ATF officer and set forth the information necessary to make the application file accurate and

§ 24.121

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 ATF officer which has on file the list of stockholders, provided the sale or

27 CFR Ch. I (4-1-01 Edition)

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))

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[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 ATF 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 ATF 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 ATF 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

§ 24.129

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 ATF officer. The notice will describe the proposed change in detail. The proprietor shall include the change covered by the notice in the next amended ATF F 5120.25 required to be filed, unless the appropriate ATF officer requires immediate amendment.

27 CFR Ch. I (4-1-01 Edition)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

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[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*.

(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 ATF 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 un taxpaid wine or spirits will be identified and segregated; and
- (4) Any other document or additional information the appropriate ATF officer may require.

(c) *Alternation.* After the necessary qualifying documents have been approved by the appropriate ATF 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 ATF 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 ATF officer. Where necessary for the protection of the revenue or enforcement of 26 U.S.C. chapter 51, the appropriate ATF 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 ATF 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]

§ 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 ATF 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,

§ 24.137

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 ATF 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) ATF 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 ATF officer may require.

(c) *Alternation.* After approval of the qualifying documents by the appropriate ATF 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 cus-

27 CFR Ch. I (4-1-01 Edition)

toms 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 ATF 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 ATF 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 ATF officer.

The proprietor shall submit a report marked "Final" on the ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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.

§ 24.147

The tax deferral bond and the wine bond may be submitted on the same ATF 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 ATF 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]

27 CFR Ch. I (4-1-01 Edition)

§ 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, AFT F 5120.36	(1) Not less than the tax on all wine or spirits in transit or unaccounted for at any one time, taking into account the appropriate small producer's wine tax credit.	\$1,000	\$50,000
	Where such liability exceeds \$250,000	500	100,000
(b) Wine Vinegar Plant Bond ATF F 5510.2*	(2) 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. Except: \$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
	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 a bonded wine premises who operates an adjacent or contiguous wine vinegar plant with a Wine Bond which 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)

[T.D. ATF-390, 62 FR 29666, June 2, 1997]

§ 24.149

27 CFR Ch. I (4-1-01 Edition)

§ 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 ATF 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 ATF 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))

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[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 cor-

porate 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 ATF 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 ATF 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 com-

promised 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 ATF officer, the person giving the bond may appeal the disapproval to the Director. The decision of the Director will be final. (Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

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[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 ATF 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 ATF officer in the case of a tax deferral bond, and not less than 90 days after the date the notice is received in the

§ 24.158

case of a bonded wine premises bond or wine vinegar plant bond. The surety will also file with the appropriate ATF 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

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 ATF 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 ATF 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))

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[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 ATF 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 ATF 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 ATF officers have ready ingress to and egress from any building or room on wine premises, and shall furnish at the request of the appropriate ATF officer evidence that the means of ingress and egress by ATF officers are assured. Where the appropriate ATF 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))

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[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 ATF 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

§ 24.168

(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 se-

27 CFR Ch. I (4-1-01 Edition)

cured so as to afford adequate protection to the revenue and to permit ready examination. The appropriate ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 (b) (4), 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 (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]

§ 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)

§ 24.183

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 ATF 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.*

27 CFR Ch. I (4-1-01 Edition)

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))

(Approved by the Office of Management and Budget under control number 1512-0298)

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,

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 24.196

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 ATF 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 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

§ 24.197

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 ATF 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.

27 CFR Ch. I (4-1-01 Edition)

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 an alcohol content of more than 14 percent by volume nor may the total solids content exceed 35 degrees Brix. (Sec. 201, Pub. L. 85-859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

§ 24.203 Honey wine.

In the production of wine from honey, a quantity of water may be added to facilitate fermentation provided the density of the mixture of honey and water is not reduced below 22 degrees Brix. Hops may be added in quantities not to exceed one pound for each 1,000 pounds of honey. Pure dry sugar or honey may be added for sweetening. After complete fermentation or complete fermentation and sweetening, the wine may not have an alcohol content of more than 14 percent by volume nor may the total solids content exceed 35 degrees Brix. (Sec. 201, Pub. L. 85-859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

§ 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

§ 24.212

§ 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

27 CFR Ch. I (4-1-01 Edition)

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

§ 24.226

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

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 ATF 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

§ 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 ATF 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 area supervisor. (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 ATF 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 ATF F 5120.17, Report of Bonded

27 CFR Ch. I (4-1-01 Edition)

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 at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. 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)

§ 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 ATF 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 ATF officer on proprietor’s notice.* Upon receipt of the proprietor’s notice, the appropriate ATF officer may require the proprietor to submit samples representative of the lot of juice or wine for examination by the ATF laboratory.

(c) *Samples and chemical analysis—(1) Samples.* If the appropriate ATF 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 ATF 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 ATF officer will return an approved copy of the proprietor’s written notice. If the ATF chemical analysis shows that the proposed treatment is not acceptable, the appropriate ATF 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

§ 24.244

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 ATF officer not in accordance with good commer-

27 CFR Ch. I (4-1-01 Edition)

cial 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 ATF 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.
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 (<i>mono</i> - and <i>di</i> 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 <i>iso</i> -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.. A fining agent for cold stabilization.	The natural or fixed acids shall not be reduced below 5 g/L. 21 CFR 184.1069 and 184.1099, and 184.1191 (GRAS). The amount used shall not exceed 30 lbs/1000 gals. (3.59 g/L) of wine.
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. 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.
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) shall not exceed 0.5 part copper per million parts of wine (0.5 mg/L) with the residual level of copper not to be in excess of 0.5 part 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 (<i>alpha</i> -Amylase): To convert starches to fermentable carbohydrates.	The amylase enzyme activity shall be derived from <i>Aspergillus niger</i> , <i>Aspergillus oryzae</i> , <i>Bacillus subtilis</i> , or barley malt per FDA advisory opinion of 8/18/83 or from <i>Rhizopus oryzae</i> per 21 CFR 173.130 or from <i>Bacillus licheniformis</i> per 21 CFR 184.1027.

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE—Continued

Materials and use	Reference or limitation
Carbohydrase (<i>beta</i> -Amylase): To convert starches to fermentable carbohydrates. Carbohydrase (Glucoamylase, Amylogluco-sidase): To convert starches to fermentable carbohydrates.	The amylase enzyme activity shall be derived from barley malt per FDA advisory opinion dated 8/18/83. The amylase enzyme activity shall be derived from <i>Aspergillus niger</i> or <i>Aspergillus oryzae</i> per FDA advisory opinion dated 8/18/83 or from <i>Rhizopus oryzae</i> per 21 CFR 173.130 or from <i>Rhizopus niveus</i> per 21 CFR 173.110.
Catalase: To clarify and to stabilize wine	The enzyme activity used shall be derived from <i>Aspergillus niger</i> 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 <i>Aspergillus niger</i> per FDA advisory opinion dated 8/18/83 (GRAS).
Glucose oxidase: To clarify and to stabilize wine	The enzyme activity used shall be derived from <i>Aspergillus niger</i> per FDA advisory opinion of 8/18/83 (GRAS).
Pectinase: To clarify and to stabilize wine and to facilitate separation of juice from the fruit.	The enzyme activity used shall be derived from <i>Aspergillus niger</i> per FDA advisory opinion dated 8/18/83 (GRAS).
Protease (general): To reduce or to remove heat labile proteins.	The enzyme activity used shall be derived from <i>Aspergillus niger</i> or <i>Bacillus subtilis</i> per FDA advisory opinion dated 08/18/83 or from <i>Bacillus licheniformis</i> per 21 CFR 184.1027 (GRAS).
Protease (Bromelin): To reduce or to remove heat labile proteins.	The enzyme activity used shall be derived from <i>Ananus comosus</i> or <i>Ananus bracteatus</i> (<i>L</i>) 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 <i>Ficus spp.</i> 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 derived from <i>Carica papaya</i> (<i>L</i>) per 21 CFR 184.1585 (GRAS).
Protease (Pepsin): To reduce or to remove heat labile proteins.	The enzyme activity 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).
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 <i>Lactobacillus fermentum</i> 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 <i>Vitis vinifera</i> 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 exceed 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.
	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 <i>Leuconostoc oenos</i> 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 <i>Vitis vinifera</i> grapes. FDA advisory opinion dated 12/1/86.
Milk (pasteurized whole or skim) Finishing agent for white grape wine or sherry	The amount used shall not exceed 2.0 liters of pasteurized milk per 1,000 liters of white grape wine or sherry (0.2 percent V/V).
Nitrogen gas: To maintain pressure during filtering and bottling or canning of wine and to prevent oxidation of wine.	21 CFR 184.1540 (GRAS).

MATERIALS AUTHORIZED FOR TREATMENT OF WINE AND JUICE—Continued

Materials and use	Reference or limitation
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 Polyvinyl-pyrrolidone (PVPP): To clarify and to stabilize wine and to remove color from red or black wine or juice.	None. 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	Use shall 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 shall be completely removed by filtration. (GRAS).
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).
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]

§ 24.247

27 CFR Ch. I (4-1-01 Edition)

§ 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 limita-

tions 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 ATF 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 (<i>mono-</i> and <i>di</i> 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.
Carbohydrase (<i>alpha-</i> Amylase).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity shall be derived from <i>Aspergillus niger</i> , <i>Aspergillus oryzae</i> , <i>Bacillus subtilis</i> , or barley malt per FDA advisory opinion of 8/18/83 or from <i>Rhizopus oryzae</i> per 21 CFR 173.130 or from <i>Bacillus licheniformis</i> per 21 CFR 184.1027.
Carbohydrase (<i>beta-</i> 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 <i>Aspergillus niger</i> or <i>Aspergillus oryzae</i> per FDA advisory opinion dated 8/18/83 or from <i>Rhizopus oryzae</i> per 21 CFR 173.130 or from <i>Rhizopus niveus</i> 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 ATF 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
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
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; 1. Such treatment does not alter the fruit character of the juice or wine. 2. The treatment does not reduce the color of the juice or wine to less than that normally contained in such juice or wine. 3. Treatment does not increase inorganic anions in the juice or wine by more than 10 mg/L. 4. The treatment does not reduce the metallic cation concentration in the juice or wine to less than 300 mg/L. 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. 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. 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.
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 essence must be added back to any lot of wine as was originally removed.
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."

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 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.
	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.

¹This 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]

§ 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF 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 ATF officer will make a decision regarding the acceptability of the proposed treatment in good commercial practice. The appropriate ATF 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.

§ 24.256

27 CFR Ch. I (4-1-01 Edition)

(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 shall securely affix to each bottle or other container of beverage wine prior to removal for consumption or sale a label showing:

(1) The name and address of the wine premises where bottled or packed;

(2) The brand name (the name and address required by (a)(1) of this section may be the brand name);

(3) The kind of wine. The designation as to kind will be shown as follows:

(i) For wine requiring a label approval under 27 CFR part 4, the class, type, or other designation provided in that part.

(ii) For wine labeled under an exemption from label approval, an adequate statement of composition may be the designation in lieu of the kind (class and type) stated in 27 CFR part 4.

(iii) For any wine with less than 7 percent alcohol by volume (except hard cider as defined in §24.10), the word "wine" or the words "carbonated wine" if the wine contains more than 0.392 grams of carbon dioxide per 100 milliliters, will appear as part of the brand name or in a phrase in direct conjunction with the brand name;

(iv) For hard cider as defined in §24.10, the words "hard cider";

(4) 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

(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 Director.

(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]

§ 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 ATF 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))

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[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

§ 24.265

27 CFR Ch. I (4-1-01 Edition)

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 ATF 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 ATF 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 ATF 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, soaking, 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, soaking, 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 trans-continental shipments) of the volume shipped, the proprietor of the receiving bonded wine premises shall immediately notify the appropriate ATF 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 ATF officer. If required by the appropriate ATF officer, the proprietor must file a claim under the provisions of § 24.65. The volume of wine loss must be reported on ATF 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 than 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 check, cash, or money order.

(a) *General.* Unless prepaid or no tax is due, the tax on wine is paid by a semi-monthly or annual Excise Tax Return, ATF F 5000.24, which is filed with remittance (check or money order) for the full amount of tax due. Prepayments of tax on wine during the period

§ 24.271**27 CFR Ch. I (4-1-01 Edition)**

covered by the return are shown separately on the Excise Tax Return form.

(b) *Return periods.* Except as provided for in paragraph (c) of this section and § 24.273, or where there is no tax due, return periods are from the 1st day of each month through the 15th day of that month and from the 16th day of each month through the last day of that month. The proprietor shall file returns with remittances, 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 provided by § 24.271(c)(3).

(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 § 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 semi-

monthly 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]

§ 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 250 and 251 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 250 and 251 of this chapter, shall give written notice to the appropriate ATF 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 250 and 251 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 ATF 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 ATF 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

§ 24.273

27 CFR Ch. I (4-1-01 Edition)

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 ATF officer will issue to the proprietor an ATF 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]

§ 24.273 Exception to filing semi-monthly tax returns.

(a) Any proprietor who has not given a bond for deferred payment of wine excise tax and who:

(1) Paid wine excise taxes in an amount less than \$1000 (\$500 prior to May 12, 1993,) during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than \$1000 (\$500 prior to May 12, 1993,) in wine excise taxes

before the end of the calendar year, may file the Excise Tax Return, ATF F 5000.24, and remittance, within 30 days after the end of the calendar year instead of semimonthly as required by § 24.271. However, 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 \$1000 or more, the proprietor will commence semimonthly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

(b) A proprietor who files under this section is subject to the failure to pay or file provisions of § 24.274. If there is a jeopardy to the revenue, the appropriate ATF officer may deny the exceptions to filing tax returns provided in this section at any time. (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 number 1512-0467)

[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 19064, Apr. 12, 1993; 58 FR 48424, Sept. 15, 1993; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 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, ATF 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 ATF.

(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 ATF 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 ATF 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, ATF 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

§ 24.278

27 CFR Ch. I (4-1-01 Edition)

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.* In the case of a person who produces not more than 250,000 gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by Title 26, U.S.C. (other than Chapters 2, 21 and 22), 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 such year for consumption or sale. Such credit applies only to wine which has been produced at a qualified bonded wine premises in the United States. The small wine producer's 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 producers' wine tax credit on wine removed during such calendar year. A proprietor who has obtained a new wine producers' basic permit may not take the small producers' wine tax credit on wine removed until wine is produced by such proprietor. "Wine production operations" include those activities described in paragraph (e) 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" shall 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 which 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 may be used by a person.

(2) *Credit for transferees in bond.* A person other than an eligible small producer (hereafter in this paragraph referred to as the "transferee") shall be allowed the credit under paragraph (a) of this section which would be allowed to the 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 such person during the calendar year,

(ii) Wine produced by such person is removed during such calendar year by the transferee to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

(iii) Such producer holds title to such 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.

(iv) At the time of taxable removal, the following information shall be provided to the transferee by the producer, in writing, and the producer and transferee shall each retain a copy with the record of taxpaid removal from bond required by § 24.310:

(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 allowable by paragraph (a) of this section shall be determined at the same time as the tax is determined under 26 U.S.C. 5041(a), and shall 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 constituted a reduction in the rate of such 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 shall be 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) eligible for such credit at the time it is removed for consumption or sale;

(2) For persons who produce more than 150,000 gallons but not more than 250,000 gallons during the calendar year, the credit shall be reduced by 1 percent for every 1,000 gallons produced in excess of 150,000 gallons. For example, the credit which 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 the purpose of determining if a person's production is within the 250,000 gallon limitation, in addition to wine produced by fermentation, production includes any increases in the volume of such wine due to the winery operations of amelioration, wine spirits addition, sweetening, and the production of formula wine. Production of champagne and other sparkling wines is not excluded 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 such person.

(2) *Removals.* For the purpose of determining if a person's removals are within the 100,000 gallon limitation, removals include wine removed from all qualified bonded wine premises within the United States by such person. Wine removed by a transferee in bond under

the provisions §24.278(b)(2) will be counted as a removal by the small producer who owns such wine, and not by the transferee in bond.

(f) *Preparation of tax return.* A person who is eligible for the credit shall show the amount of wine tax before credit on the Excise Tax Return, ATF F 5000.24, and enter the quantity of wine subject to 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 shall report on ATF F 5000.24 where such credit will be, or has been, applied. Where a transferee in bond takes credit on behalf of one or more small producers, the names of such producers, their credit rate, and the total credit taken on behalf of each during the tax return period shall be shown in schedule B.

(g) *Denial of deduction.* Any deduction under 26 U.S.C. chapters 1-6, with respect to any tax against which the credit is allowed under paragraph (a) of this section shall only be for the amount of such tax as reduced by such credit.

(h) *Exception to credit.* The appropriate ATF officer shall deny any tax credit taken under paragraph (a) of this section where it is determined that the allowance of such credit would benefit a person who would otherwise fail to qualify for the use of such credit. (26 U.S.C. 5041(c).)

(Approved by the Office of Management and Budget under control number 1512-0540)

[T.D. ATF-390, 62 FR 29666, June 2, 1997, as amended by T.D. ATF-398, 63 FR 44783, Aug. 21, 1998; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 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, such adjustment

§ 24.280

shall be made on Excise Tax Return, ATF 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, it shall be made 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 such return periods. The person shall make tax adjustments for all bonded wine premises where excessive credits were taken against tax that year, and shall 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, the adjustment is the full amount of excess credit taken, and shall include interest payable under 26 U.S.C. 6601 from the date on which the excess credit was taken, and may include the penalty payable under 26 U.S.C. 6662, at the discretion of the appropriate ATF officer. The appropriate ATF officer will provide information, when requested, regarding interest rates applicable to specific time periods, and any applicable penalties. In the case of a controlled group of bonded wine premises who took excess credits, all member proprietors who took incorrect credits shall 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 the credit was less or not applicable, such producer shall immediately inform the transferee in bond, in writing, of the correct credit information. The transferee shall make any increasing adjustment on its next tax return based on revised credit information given by the producer or by an ATF 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, a claim may be filed for refund of tax excessively paid. Such claims will be filed in accordance with § 24.69 of this part. In the case of wine removed on behalf of a small producer

27 CFR Ch. I (4-1-01 Edition)

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 such producer, such 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 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 1512-0492)

[T.D. ATF-390, 62 FR 29667, June 2, 1997, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

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

§ 24.292

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 ATF officers during regular business hours. (August 16, 1954, ch. 736, 68A Stat. 903, as amended (26 U.S.C. 7606); Sec. 201,

27 CFR Ch. I (4-1-01 Edition)

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 252 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 252 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 ATF 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]

§ 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 ATF 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 ATF 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 ATF 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 ATF officer unless the appropriate

ATF 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 ATF officer.

(b) *Record of destruction.* The proprietor shall maintain a record of the volume destroyed and include the quantity on the ATF 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

§ 24.296

wine returned to bond is determined upon receipt on bonded wine premises. The quantity determined will be entered on the ATF 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)

[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-344, 58 FR 40354, July 28, 1993; T.D. ATF-376, 61 FR 31030, June 19, 1996]

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 ATF 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 ATF 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 un taxpaid 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 ATF officers. Source records and supplemental or auxiliary records may be used as a record of an operation or transaction and to prepare the ATF F 5120.17, Report of Bonded Wine Premises Operations, provided the record will readily allow for verification of an operation or transaction by appropriate ATF 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 ATF 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 ex-

amination if requested by an appropriate ATF 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) *ATF F 5120.17, Report of Bonded Wine Premises Operations.* A proprietor who conducts bonded wine premises operations will summarize transaction entries and submit an ATF F 5120.17 on a monthly basis, except that:

(1) A proprietor who files a monthly ATF 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 a statement to the ATF F 5120.17 filed that, until a change in the inventory or a reportable operation occurs, an ATF F 5120.17 will not be filed.

(2) A proprietor may file ATF F 5120.17 reports on a calendar year basis if (i) The proprietor expects to be exempt from filing semimonthly returns under §24.273 for the calendar year and (ii) The sum of the bulk and bottled wine to be accounted for in all tax classes is not expected 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

§ 24.301

27 CFR Ch. I (4-1-01 Edition)

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. To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF 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 ATF officer, and file an annual ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the wine excise tax liability for the current year will exceed \$1,000 or that the 20,000 gallon activity level will be exceeded in any month, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the appropriate ATF officer may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly. The information reported on the ATF F 5120.17 will be maintained in accordance with the requirements of this part.

(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)

[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, 13684 and 13686, Mar. 22, 1999]

§ 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 tax-paid, 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; and

(j) An explanation of any unusual transaction. (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-307, 55 FR 52738, Dec. 21, 1990; T.D. ATF-312, 56 FR 31082, July 9, 1991]

§ 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; and

(i) An explanation of any unusual transaction. (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-312, 56 FR 31082, July 9, 1991]

§ 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 ATF 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, aro-

matics, 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 ATF 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.

§ 24.305

(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 ATF 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))

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[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.

27 CFR Ch. I (4-1-01 Edition)

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))

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[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, ATF 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.

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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]

§ 24.309 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,

§ 24.310

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-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))

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[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,

27 CFR Ch. I (4-1-01 Edition)

(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)).

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[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 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 ATF officer. 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 ATF 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 ATF 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 ATF F 5120.17. Spirits will also be totaled and reported on the ATF 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]

§ 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 ATF 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

§ 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))

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27 CFR Ch. I (4-1-01 Edition)

§ 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 ATF 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 ATF 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 ATF 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 Director.

Subpart B—Definitions

- 25.11 Meaning of terms.