

tolerance of plus or minus 0.1 percent. A mass flow meter used for all other required volume determinations of bulk spirits must be certified by the manufacturer of the meter or other qualified person as accurate within a tolerance of plus or minus 0.5 percent.

Administrator. The Administrator of the Alcohol and Tobacco Tax and Trade Bureau, the Department of the Treasury, Washington, D.C., or a delegate or designee of the Administrator.

Alcoholic flavoring materials. Any non-beverage product on which drawback has been or will be claimed under 26 U.S.C. 5111-5114, and any flavor imported free of tax which is unfit for beverage purposes. This term includes eligible flavors but does not include flavorings or flavoring extracts manufactured on the bonded premises of a distilled spirits plant as an intermediate product.

Application for registration. The application for registration of a distilled spirits plant that is required by 26 U.S.C. 5171(c).

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.19, Delegation of the Administrator's Authorities in 27 CFR Part 19, Distilled Spirits Plants.

Article. A product containing denatured spirits, which was manufactured under this part or part 20 of this chapter.

Bank. Any commercial bank.

Banking day. Any day that a bank is open to the public to carry on substantially all of its banking functions.

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

Bond. A bond is a formal guarantee for payment of monies due to TTB, including taxes imposed by 26 U.S.C. chapter 51, and any related fines, penalties or interest that the proprietor of a distilled spirits plant may incur, up to an amount specified by the bond (the bond "penal sum").

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for reg-

istration, on which the conduct of distilled spirits operations defined in 26 U.S.C. 5002 is authorized.

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

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

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

Bulk distilled spirits. Distilled spirits in a container having a capacity in excess of one wine gallon.

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

Calendar quarter and quarterly. These terms refer to the 3-month periods ending on March 31, June 30, September 30, or December 31.

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

CFR. The Code of Federal Regulations.

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

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

Denaturant or denaturing material. Any material authorized by part 21 of this chapter for addition to spirits in the production of denatured spirits.

Denatured spirits. Spirits to which denaturants have been added as provided in part 21 of this chapter.

Director of the service center. A director of an Internal Revenue Service Center.

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

Distilled spirits plant. An establishment which is qualified under this part to conduct distilled spirits operations.

Distiller. Any person who:

(1) Produces distilled spirits from any source or substance;

(2) Brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than making or using of mash, wort, or wash in the authorized production of wine or beer, or in the production of vinegar by fermentation);

(3) By any process separates alcoholic spirits from any fermented substance; or

(4) Making or keeping mash, wort, or wash, has a still in his possession or use.

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 the Internal Revenue Service.

Effective tax rate. The net tax rate, after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content, at which the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is paid or determined.

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

Eligible flavor. A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5114;

(2) Was not manufactured on the premises of a distilled spirits plant; and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

Eligible wine. Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

Export or exportation. A separation of goods from the mass of goods belonging to the United States with the intention of uniting them with goods belonging to a foreign country or any possession of the United States, including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, and Guam.

Fermenting material. Any material that will be subject to a process of fermentation in order to produce distilling material.

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

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

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

General premises. Any business office, service facility, or other part of the premises described in the notice of registration other than bonded premises.

In bond. When used to describe spirits, denatured spirits, articles, or wine, this term refers to spirits, denatured spirits, articles, or wine held under bond to secure the payment of the taxes imposed by 26 U.S.C. chapter 51, and on which those taxes have not been determined. The term also refers to such spirits, denatured spirits, articles, or wine on the bonded premises of a distilled spirits plant, and such spirits, denatured spirits, or wines that are in transit between bonded premises (including, in the case of wine, bonded wine cellar premises). In addition, the term refers to spirits in transit from customs custody to bonded premises,

§ 19.1

27 CFR Ch. I (4–1–11 Edition)

and spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not occurred under 26 U.S.C. 5005(e)(2).

Industrial use. When used with reference to spirits, the meaning given to the term in § 19.472.

Intermediate product. Any product manufactured according to an approved formula under part 5 of this chapter, intended not for sale as such but for use in the manufacture of a distilled spirits product.

IRC. The Internal Revenue Code of 1986, as amended.

Kind. Except as provided in § 19.597, when used with reference to spirits, this term means class and type as prescribed in part 5 of this chapter. When used with reference to wines, this term means the class and type of wine as prescribed in part 4 of this chapter.

Letterhead application. A letter on a company's letterhead or other piece of paper that clearly shows the company name from a company representative with signature authority. A letterhead application is subject to TTB approval prior to any change requested in the letter.

Letterhead notice. A letter on a company's letterhead or other piece of paper that clearly shows the company name from a company representative with signature authority. A letterhead notice does not require approval by TTB prior to the change.

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

Liter. A metric unit of capacity equal to 1,000 cubic centimeters or 1,000 milliliters (ml) of alcoholic beverage, and equivalent to 33.814 fluid ounces.

Lot identification number. The package identification number described in 27 CFR 19.485.

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

National Revenue Center. TTB's National Revenue Center, in Cincinnati, Ohio.

Nonindustrial use. When used with reference to spirits, the meaning given to the term in § 19.472.

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

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

Package identification number. The lot identification number described in 27 CFR 19.595.

Person. An individual, trust, estate, partnership, association, company, corporation, limited liability company, limited liability partnership, or other entity recognized by law as a person.

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

Plant number. The number assigned to a distilled spirits plant by TTB.

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

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

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

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

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

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

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, as provided in part 20 of this chapter.

Season. The period from January 1st through June 30th (spring season) or the period from July 1st through December 31st (fall season).

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

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

Spirits or distilled spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits unless specifically stated. The term does not include mixtures of distilled spirits and wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Spirits residues. Residues, containing distilled spirits, of a manufacturing process related to the production of an article under part 20 of this chapter.

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

Taxpaid. When used with reference to distilled spirits, all applicable taxes imposed by law on those spirits have been determined or paid as provided by law.

This chapter. Title 27 of the Code of Federal Regulations, Chapter I, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury (27 CFR chapter I).

Transfer in bond. The removal of spirits, denatured spirits and wines from

one bonded premises to another bonded premises.

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

TTB. The Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

TTB bond. The internal revenue bond as prescribed in 26 U.S.C. chapter 51.

TTB officer. An officer or employee of TTB authorized to perform any function relating to the administration or enforcement of the provisions of this part.

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

U.S.C. The United States Code.

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

We. TTB and TTB officers.

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

Wine spirits. Spirits authorized for use in wine production by 26 U.S.C. 5373.

§ 19.2 Territorial extent of these regulations.

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

§ 19.3 Related regulations.

Other regulations relating to distilled spirits and distilled spirits plants are listed below:

- 27 CFR part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits.
- 27 CFR part 4—Labeling and Advertising of Wine.
- 27 CFR part 5—Labeling and Advertising of Distilled Spirits.
- 27 CFR part 16—Alcoholic Beverage Health Warning Statement.
- 27 CFR part 17—Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products.
- 27 CFR part 20—Distribution and Use of Denatured Alcohol and Rum.
- 27 CFR part 21—Formulas for Denatured Alcohol and Rum.
- 27 CFR part 22—Distribution and Use of Tax-Free Alcohol.

§ 19.4

- 27 CFR part 24—Wine.
- 27 CFR part 25—Beer.
- 27 CFR part 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
- 27 CFR part 27—Importation of Distilled Spirits, Wines, and Beer.
- 27 CFR part 28—Exportation of Alcohol.
- 27 CFR part 29—Stills and Miscellaneous Regulations.
- 27 CFR part 30—Gauging Manual.
- 27 CFR part 31—Alcohol Beverage Dealers.
- 27 CFR part 71—Rules of Practice in Permit Proceedings.
- 31 CFR part 225—Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties.

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

Certain activities involving distilled spirits are not covered by this part. Instead, manufacturers who engage in any of the activities listed below are required to comply with the regulations in part 20 of this chapter relating to the use and recovery of spirits or denatured spirits. Those activities are:

- (a) Use of denatured spirits, or articles or substances containing denatured spirits, in a process wherein any part or all of the spirits, including denatured spirits, are recovered;
- (b) Use of denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a byproduct; or
- (c) Use of chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a byproduct.

(26 U.S.C. 5273)

§ 19.5 Manufacturing products unfit for beverage use.

(a) *General.* Except as provided in paragraph (b) of this section, apothecaries, pharmacists, or manufacturers who manufacture or compound any of the following products using tax paid or tax determined distilled spirits are not required to register and qualify as a distilled spirits plant (processor):

- (1) Medicines, medicinal preparations, food products, flavors, flavoring extracts, and perfume, conforming to the standards for approval of nonbeverage

27 CFR Ch. I (4–1–11 Edition)

drawback products found in §§ 17.131 through 17.137 of this chapter, whether or not drawback is actually claimed on those products. Except as provided in paragraph (c) of this section, a formula does not need to be submitted if drawback is not desired;

(2) Patented and proprietary medicines that are unfit for use for beverage purposes;

(3) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes;

(4) Laboratory reagents, stains, and dyes that are unfit for use for beverage purposes; and

(5) Flavoring extracts, syrups, and concentrates that are unfit for use for beverage purposes.

(b) *Exception for beverage products.* Products identified in part 17 of this chapter as being fit for beverage use are alcoholic beverages. Bitters, patent medicines, and similar alcoholic preparations that are fit for beverage purposes, although held out as having certain medicinal properties, are also alcoholic beverages. These products are subject to the provisions of this part and must be manufactured on the bonded premises of a distilled spirits plant.

(c) *Submission of formulas and samples.* When requested by the appropriate TTB officer or when the manufacturer wishes to ascertain whether a product is unfit for beverage use, the manufacturer will submit the formula and a sample of the product to the appropriate TTB officer for examination. TTB will determine whether the product is unfit for beverage use and whether manufacture of the product is exempt from qualification requirements.

(d) *Change of formula.* If TTB finds that a product manufactured under paragraph (a) of this section is being used for beverage purposes, or for mixing with beverage spirits other than by a processor, TTB will notify the manufacturer to stop manufacturing the product until the formula is changed to make the product unfit for beverage use and the change is approved by the appropriate TTB officer. However, the provisions of this paragraph will not prohibit products which are unfit for

beverage use from use in small quantities for flavoring drinks at the time of serving for immediate consumption.

(26 U.S.C. 5002, 5171)

Subpart B—Administrative and Miscellaneous Provisions

§ 19.11 Right of entry and examination.

A TTB officer may enter any distilled spirits plant, any other premises where distilled spirits operations are carried on, or any structure or place used in connection with distilled spirits operations, at any time of day or night. A TTB officer may examine materials, equipment, and facilities, and make any gauges and inventories. Whenever a TTB officer states his or her name and office and demands admittance but is not admitted into the premises or place, the TTB officer is authorized to use all necessary force to gain entry.

(26 U.S.C. 5203)

§ 19.12 Furnishing facilities and assistance.

The proprietor is required to provide TTB officers with the necessary facilities and assistance in order to gauge spirits in any container, or to examine any apparatus, equipment, containers, or materials, at the distilled spirits plant. Also, when requested by a TTB officer, the proprietor must:

(a) Open any doors and open for examination any containers on the plant premises; and

(b) Provide the exact locations (including the number of containers at each location) of all packages and similar portable approved containers within a given lot and the locations (that is, buildings, rooms, or areas) where spirits in cases are stored.

(26 U.S.C. 5202, 5203)

§ 19.13 Assignment of officers and supervision of operations.

(a) *General.* TTB may assign TTB officers to a distilled spirits plant and utilize controls, such as Government locks and seals, if TTB decides that those measures are necessary to effectively supervise the operations. If TTB decides that such supervision is necessary:

(1) The proprietor must obtain approval of the plant's hours of operations from the appropriate TTB officer;

(2) TTB may require the proprietor to submit a schedule of operations to a TTB officer; and

(3) TTB may require the proprietor to delay any distilled spirits operation until the proprietor can conduct it in the presence of a TTB officer.

(b) *Notification of supervision.* If TTB determines that supervision of plant operations is necessary, TTB will notify the proprietor of the extent to which TTB intends to supervise those operations. If TTB determines later that TTB supervision is no longer necessary, the appropriate TTB officer will notify the proprietor of that fact.

(26 U.S.C. 5201, 5202, 5553)

§ 19.14 Delegation of the Administrator's authorities to the appropriate TTB officer.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.19, Delegation of the Administrator's Authorities in 27 CFR Part 19, Distilled Spirits Plants. Interested persons may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

§ 19.15 Forms prescribed.

(a) TTB prescribes and makes available all forms required by this part. Persons completing forms must furnish all of the information required by each form, as indicated by the headings and instructions on the form or as required by these regulations. Each form must be filed in accordance with this part and the instructions for the form.

(b) Persons may obtain TTB forms by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the TTB National Revenue Center, 550 Main Street, Suite 8002, Cincinnati, Ohio 45202.

(26 U.S.C. 5207)