

§ 19.18

to contain, spirits when the appropriate TTB officer believes that the required tax on those spirits has not been paid or determined or that the removal of the container is in violation of law or the provisions of this part. The appropriate TTB officer will hold the container at a safe place until it is determined whether the detained property is subject to forfeiture.

(b) *Limitation.* A detention under paragraph (a) of this section may not exceed 72 hours without process of law or intervention of the appropriate TTB officer. However, the detained container may be kept on the premises beyond the 72-hour period without process of law or intervention if the person possessing the container immediately before its detention executes a waiver of this 72-hour limitation on detention of the container.

(26 U.S.C. 5311)

§ 19.18 Samples for the United States.

TTB officers are authorized to take samples of spirits, denatured spirits, articles, wines, or other materials from a distilled spirits plant for analysis, testing, or to determine whether the product complies with the law and regulations. When TTB removes a sample from a plant, TTB will give the proprietor a receipt for the sample.

(26 U.S.C. 5201, 5203, 5214, 5362)

§ 19.19 Discontinuance of storage facilities.

If TTB determines that a proprietor's bonded storage facility for spirits is unsafe or unfit for use, or causes excessive waste or loss of spirits, TTB can require that the proprietor discontinue using the facility. Further, TTB can require the transfer of the spirits stored in the facility to another storage facility. The transfer will take place at such time and under such supervision as TTB may require, and will be at the expense of the owner or warehouseman of the spirits. If the owner or warehouseman fails to transfer the spirits within the prescribed time or to pay the expense of the transfer, as ascertained and determined by the appropriate TTB officer, the spirits may be seized and sold. TTB will first apply the proceeds of such sale to the pay-

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ment of the taxes due on the spirits and then to the cost and expense of the sale and removal, and the remaining balance, if any, will be paid over to the owner or warehouseman.

(26 U.S.C. 5236)

§ 19.20 Installation of meters, tanks, and other apparatus.

The appropriate TTB officer may require the proprietor to install meters, tanks, pipes, or any other apparatus at the proprietor's plant if that officer decides that the equipment is necessary for the protection of the revenue. If the proprietor refuses or fails to install any such apparatus when instructed to do so, the proprietor will not be permitted to conduct business as a distilled spirits plant.

(26 U.S.C. 5552)

ALTERNATE METHODS OR PROCEDURES AND EXPERIMENTAL OPERATIONS

§ 19.26 Alternate methods or procedures.

(a) *General.* The appropriate TTB officer may approve the use of an alternate method or procedure that varies from the regulatory requirements in this part if the proprietor shows good cause for its use and the alternate method or procedure:

- (1) Is not contrary to law;
- (2) Will not have the effect of waiving an existing regulatory requirement;
- (3) Is consistent with the purpose and effect of the method or procedure prescribed in this part;
- (4) Provides equal security to the revenue; and
- (5) Will not cause an increase in cost to the Government and will not hinder TTB's administration of this part.

(b) *Exceptions.* TTB will not authorize the use of an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(c) *Prior approvals.* Alternate methods or procedures in effect prior to April 18, 2011, which are not contrary to the regulations in this part, are preserved until renewed unless revoked by operation of law due to the enactment of

law that is contrary to the alternate method or procedure.

(26 U.S.C. 5552, 5556)

§ 19.27 Application for and use of alternate method or procedure.

(a) *Application.* If a proprietor wishes to use an alternate method or procedure as described in § 19.26, the proprietor must submit a written letterhead application to the appropriate TTB officer for approval. The application must identify the method or procedure specified in the regulation, must describe the proposed alternate method or procedure in detail, and must explain why the alternate method or procedure is needed.

(b) *Approval and use.* The proprietor may not use an alternate method or procedure until the appropriate TTB officer has in writing approved the proprietor's application. During the period that the proprietor is authorized to use the alternate method or procedure, the proprietor must comply with any conditions imposed on its use by TTB. TTB may withdraw the approval to use the alternate method or procedure if TTB finds that the revenue is jeopardized, that the alternate method or procedure hinders effective administration of the laws or regulations, that the proprietor has violated any of the conditions imposed by TTB, or that the circumstances that gave rise to the need for the alternate method or procedure no longer exist.

(c) *Retention.* The proprietor must retain each alternate method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(26 U.S.C. 5552, 5556)

§ 19.28 Emergency variations from requirements.

(a) *Application.* A proprietor may request emergency approval of the use of a method or procedure relating to construction, equipment, and methods of operation that represents a variance from the requirements of this part. When a proprietor wishes to use an emergency method or procedure, the proprietor must submit a written letterhead application to the appropriate

TTB officer for approval; the proprietor may send the application via regular mail, email, or facsimile transmission. The application must describe the proposed emergency method or procedure and the emergency situation it will address. For purposes of this section, an emergency is considered to exist only if it results from a weather or other natural event or from an accident or other event not involving an intentional act on the part of the proprietor.

(b) *Approval.* The appropriate TTB officer may approve in writing the use of an emergency method or procedure if the proprietor demonstrates that an emergency exists and the proposed method or procedure:

- (1) Is not contrary to law;
- (2) Is necessary to address the emergency situation;
- (3) Will afford the same security and protection to the revenue as intended by the regulations; and
- (4) Will not hinder the effective administration of this subpart.

(c) *Terms of emergency method or procedure approval and use.* (1) The proprietor may not use an emergency method or procedure until the application has been approved by TTB except when the emergency method or procedure requires immediate implementation to correct a situation that threatens life or property. In a situation involving a threat to life or property, the proprietor may implement the corrective action while concurrently notifying the appropriate TTB officer by telephone of the action and filing the required written application. Use of the emergency method or procedure must conform to any conditions specified in the approval.

(2) The proprietor must retain the emergency method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(3) The emergency method or procedure will automatically terminate when the situation that created the emergency no longer exists. TTB may withdraw the approval to use the emergency method or procedure if TTB finds that the revenue is jeopardized, that the emergency method or procedure hinders effective administration