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this chapter. Used liquor bottles so received may be stored at any suitable location pending return to Puerto Rico or the Virgin Islands. Records shall be kept of the receipt and disposition of such bottles.

[T.D. 6954, 33 FR 6818, May 4, 1968, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

Subpart Q—Miscellaneous Provisions

§ 26.331 Alternate methods or procedures.

(a) *Application*. A person bringing liquors into the United States from Puerto Rico or the Virgin Islands who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file application, in triplicate, with the appropriate TTB officer. If such person has several places of business at which he desires to use such alternate method or procedure, a separate application shall be submitted for each. Each application shall:

(1) Specify the name, address, and permit number of the person to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval*. When an application for use of an alternate method or procedure is received, the appropriate TTB officer shall determine whether the approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate TTB officer, may approve the alternate method or procedure if he finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the appropriate TTB officer. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. ATF–2, 37 FR 22739, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984]

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

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AUTHORITY: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

SOURCE: 20 FR 3561, May 21, 1955, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF–479, 67 FR 30799, May 8, 2002.

CROSS REFERENCE: For regulations with respect to distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands, see part 26 of this subchapter.

EDITORIAL NOTE: Nomenclature changes to part 27 appear by T.D. ATF–474, 67 FR 11231, Mar. 13, 2002, and T.D. ATF–479, 67 FR 30799, May 8, 2002.

Subpart A—Scope of Regulations

§ 27.1 Imported distilled spirits, wines, and beer.

This part, ''Importation of Distilled Spirits, Wines, and Beer'', contains procedural and substantive requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including commodity taxes, permits, marking, branding, closing and labeling of containers and packages, and records and reports.

NOTE: Distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands are governed by the provisions of part 26 of this chapter.

[T.D. ATF–206, 50 FR 23955, June 7, 1985, as amended by T.D. ATF–459, 66 FR 38550, July 25, 2001; T.D. TTB–79, 74 FR 37406, July 28, 2009]

§ 27.2 Forms prescribed.

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

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

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF–92, 46 FR 46921, Sept. 23, 1981, as amended by T.D. ATF–249, 52 FR 5963, Feb. 27, 1987; T.D. ATF–372, 61 FR 20725, May 8, 1996; T.D. ATF–474, 67 FR 11231, Mar. 13, 2002; T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

§ 27.3 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, Wines, and Beer. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

Subpart B—Definitions

§ 27.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ''includes'' and ''including'' do not exclude things not enumerated which are in the same general class.

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

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, and Beer.

Beer. Beer, ale porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded premises—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

Bulk container. Any container having a capacity of more than 1 gallon.

Bulk distilled spirits. The term ''bulk distilled spirits'' means distilled spirits in a container having a capacity in excess of 1 gallon.

CFR. The Code of Federal Regulations.

Class 8 Customs bonded warehouse. A class 8 customs bonded warehouse established under the provisions of Customs Regulations (19 CFR, chapter I).

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not including wine as defined in this subpart.

Distilled spirits plant. An establishment qualified under the provisions of part 19 of this chapter for the production, storage, or processing of spirits, or for authorized combinations of such operations.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

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

Eligible flavor. A flavor which:

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

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

Importer. Any person who imports distilled spirits, wines, or beer into the United States.

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

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

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

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

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

United States. ''United States'' includes only the States and the District of Columbia.

U.S.C. The United States Code.

Wine. (a) Still wine, including vermouth or other aperitif wine, artificial or imitation wines or compounds sold as still wines, champagne or sparkling wine, and artificially carbonated wine, and (b) flavored or sweetened fortified or unfortified wines, by whatever name sold or offered for sale, containing not over 24 percent alcohol by volume.

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

[T.D. ATF–48, 43 FR 13552, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

Subpart C—Dealer Registration and Recordkeeping

SOURCE: T.D. TTB–79, 74 FR 37406, July 28, 2009, unless otherwise noted.

§ 27.30 Dealer registration and recordkeeping.

Importers engaged in the business of selling, or offering for sale, distilled spirits, wines, or beer are subject to the provisions of part 31 of this chapter relating to dealer registration and records. Part 31 requires the filing of TTB Form 5630.5d with TTB, in accordance with the instructions on the form, before commencing business and on or before July 1 of each year thereafter if there have been any changes. The dealer must file an amended registration and give notice of termination in accordance with the rules of part 31.

(26 U.S.C. 5121, 5122, 5123, 5124)

§ 27.31 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, every person engaged in business as an importer of distilled spirits who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded warehouses, or elsewhere, must register and keep records as a dealer in liquors at the place where the warehouse receipts are sold or offered for sale, in accordance with part 31 of this chapter.

(26 U.S.C. 5121, 5122, 5123, 5124)

Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

§ 27.40 Distilled spirits.

(a) A tax is imposed on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed by 26 U.S.C. 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of each proof gallon. All products of distillation, by whatever name known, which contain distilled spirits, are considered to be distilled spirits and are taxed as such. The tax will be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 27.41. The effective tax rate established will be applied to each entry.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18069, Apr. 30, 1990]

§ 27.41 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD

Distilled spirits	2249.1 proof gallons.
Eligible wine (14% alcohol by volume)	2265.0 wine gallons.
Eligible wine (19% alcohol by volume)	1020.0 wine gallons.
Eligible flavors	100.9 proof gallons.

$$\frac{2249.1(\$13.50)+2265.0(\$1.07)+1020(\$1.57)+16.6^{1}(\$13.50)}{2249.1+100.9+(2265.0\times.28)+(1020\times.38)}=$$

$$\frac{\$30{,}362.85+\$2{,}423.55+\$1{,}601.40+\$224.10}{2{,}350.0+634.2+387.6}=\frac{\$34{,}611.90}{3{,}371.8}=\$10.27,\text{ the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18069, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52742, Dec. 21, 1990. Redesignated by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

WINES

§ 27.42 Wines.

All wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax at the rates prescribed by law; such tax to be determined at the time of removal from customs custody for consumption or sale. The tax is imposed on each wine gallon and at a like rate on fractional parts of a wine gallon. Fractions

[1] Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the total proof gallons in the batch (100.9 − (2½%) × 3.371.8 = 16.6).

of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 27.42a Still wines containing carbon dioxide.

Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded.

[T.D. ATF–13, 40 FR 4419, Jan. 30, 1975. Redesignated at 40 FR 16835, Apr. 15, 1975]

LIQUEURS, CORDIALS, AND OTHER COMPOUNDS AND PREPARATIONS

§ 27.43 Liqueurs, cordials, and similar compounds.

A tax is imposed by 26 U.S.C. 5001 on all liqueurs, cordials, and similar compounds, containing distilled spirits, in a customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1331, as amended (26 U.S.C. 5001, 5041))

[T.D. ATF–62, 44 FR 71718, Dec. 11, 1979]

§ 27.44 Other compounds and preparations.

Compounds and preparations, other than those specified in § 27.43 containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rates applicable to distilled spirits. Compounds and preparations, containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wines.

(68A Stat. 595, as amended, 609, as amended; 26 U.S.C. 5001, 5041)

BEER

§ 27.45 Rate of tax.

A tax is imposed by 26 U.S.C. 5051, on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for fractional parts of a barrel. The tax on beer shall be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5054))

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55853, Sept. 28, 1979]

§ 27.46 Computation of tax.

The tax on imported beer shall be computed on the basis of the actual quantity in a container, at the rate prescribed by law.

(72 Stat. 1333, as amended; 26 U.S.C. 5051)

[T.D. 6644, 28 FR 3165. Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

COLLECTION OF INTERNAL REVENUE TAXES

§ 27.48 Imported distilled spirits, wines, and beer.

Internal revenue taxes payable on imported distilled spirits, including perfumes containing distilled spirits, and on wines and beer, are collected, accounted for, and deposited as internal revenue collections by directors of customs in accordance with customs requirements: *Provided*, That the taxes on distilled spirits withdrawn from customs custody without payment of tax under the provisions of subpart L and thereafter withdrawn from bonded premises of a distilled spirits plant subject to tax shall be collected and paid under the provisions of part 19 of this chapter.

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

[20 FR 3561, May 21, 1955, as amended by T.D. 6477, 25 FR 6204, July 1, 1960; T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.48, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 27.48a Payment of tax by electronic fund transfer.

(a) Each importer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 26 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 26 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 26 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT), as defined in paragraph (c) of this section, of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for an importer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on all taxable withdrawals from premises in the United States and importations (including products of the same tax class brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer.

(b) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words ''at least 80 percent'' shall be replaced by the words ''more than 50 percent'' in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ''controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(c) Electronic fund transfer or EFT means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer of magnetic tape, so as to order, instruct, or authorize a financial institution to either debit or credit an account, in accordance with procedures established by the U.S. Customs Service.

(d) An importer who is required by this section to make remittances by EFT shall make the EFT remittance in accordance with the requirements of the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF–245, 52 FR 533, Jan. 7, 1987, as amended by T.D. ATF–459, 66 FR 38550, July 25, 2001]

EXEMPTION OF CERTAIN SAMPLES FROM INTERNAL REVENUE TAXES

§ 27.49 Commercial samples of alcoholic beverages.

Samples of distilled spirits, beer, and wine, to be used in the United States by persons importing alcoholic beverages in commercial quantities, are, subject to the limitations in this section, exempt from the payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. In no case shall this exemption apply to more than one sample of each alcoholic beverage product admitted during any calendar quarter for the use of each such person. No sample of beer shall contain more than 8 ounces, no sample of wine shall contain more than 4 ounces, and no sample of distilled spirits shall contain more than 2 ounces.

(76 Stat. 72; 19 U.S.C. 1202)

[T.D. 6300, 23 FR 5168, July 8, 1958; T.D. ATF–2, 37 FR 22740, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975]

Subpart E—General Requirements

PERMIT FOR IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

§ 27.55 Federal Alcohol Administration Act permit.

Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto (27 CFR part 1), any person except an agency of a State or political subdivision thereof, or any officer or employee of any such agency, intending to engage in the business of importing distilled spirits, wines or beer for nonindustrial use is required to procure a permit therefor.

(Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203)

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

PACKAGING AND MARKING OF DISTILLED SPIRITS

§ 27.56 Distilled spirits containers of a capacity of not more than 1 gallon.

Bottled distilled spirits imported into the United States for sale shall be bottled in liquor bottles which conform to the requirements of subpart N of this part and part 5 of this chapter. Empty bottles imported for the packaging of distilled spirits shall conform to the requirements of subpart N of this part. (For Customs requirements as to marking, see 19 CFR parts 11 and 12.)

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

§ 27.57 Containers in excess of 1 gallon.

Imported containers of distilled spirits in excess of 1 gallon are required to be marked in accordance with customs regulations (19 CFR parts 11 and 12).

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–206, 50 FR 23955, June 7, 1985]

LABELING OF DISTILLED SPIRITS

§ 27.58 Containers of 1 gallon (3.785 liters) or less.

Labels on imported containers of distilled spirits, and on containers of imported distilled spirits bottled in customs custody, for sale at retail, are required to be covered by a certificate of label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. Containers of imported distilled spirits bottled after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. When distilled spirits are to be labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to the provisions of part 19 of this chapter.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.58, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

MARKING AND LABELING OF WINES AND BEER

§ 27.59 Wines.

All imported wines containing not less than 7 percent and not more than 24 percent of alcohol by volume are required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4), prior to their removal from customs custody. Containers of imported wine bottled or packaged after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval on TTB Form 5100.31 issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4). Imported containers of wine are required also to be marked, branded and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF–242, 51 FR 39526, Oct. 29, 1986; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.60 Beer.

All imported beer is required to be released from customs custody in conformity with the Federal Alcohol Administration Act and regulations thereunder. The attention of all concerned is directed, in this connection, to the provisions of Regulations 7 (27 CFR part 7) relating to the labeling and advertising of malt beverages, issued under the Federal Alcohol Administration Act. Imported containers of beer are required to be marked and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

CLOSURES FOR CONTAINERS OF DISTILLED SPIRITS

§ 27.61 Containers of distilled spirits to bear closures.

No person shall transport, buy, possess, or sell, or transfer any imported distilled spirits in containers of 1 gallon (3.785 liters) or less, unless the immediate container thereof has a closure or other device affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF–206, 50 FR 23955, June 7, 1985]

§ 27.62 Affixing closures.

Each container of imported distilled spirits having a capacity of one gallon (3.785 liters) or less must have a closure or other device securely affixed to the container. The closure or other device must be constructed in such a manner as to require breaking in order to gain access to the contents of the container.

(Sec. 454, Pub. L. 98–369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. TTB–119, 79 FR 17033, Mar. 27, 2014]

EXEMPTIONS

§ 27.74 Exemption from requirements pertaining to marks, bottles, and labels.

The provisions of this part relating to the labeling of containers as prescribed by 27 CFR part 5 are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid or determined on or before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in §§ 27.49 and 27.75, imported for any purpose are not exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the labeling requirements of 27 CFR parts 4 and 7, respectively. Exemptions from the requirements that imported distilled spirits, wines, and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR part 11).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5205, 5301))

[T.D. ATF–206, 50 FR 23956, June 7, 1985]

§ 27.75 Samples of distilled spirits, wine, and beer for quality control purposes.

Samples of distilled spirits, wine, and beer in containers of a capacity of not more than 1.75 liters, imported solely for quality control purposes (laboratory testing and analysis) and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to marks, bottles, labels, and standards of fill. Samples imported for quality control purposes shall not be exempt from the payment of any internal revenue tax imposed on, or by reason of, importation.

[T.D. ATF–198, 50 FR 8557, Mar. 1, 1985, as amended by T.D. ATF–206, 50 FR 23955, June 7, 1985]

WINE AND FLAVORS CONTENT OF DISTILLED SPIRITS

§ 27.76 Approval and certification of wine and flavors content.

(a) Any person who, after December 1, 1990, imports into the United States distilled spirits on which the tax is to be paid or determined at an effective tax rate based in whole, or in part, on the alcohol content derived from eligible wine or eligible flavors which have not been previously approved on TTB Form 5530.5 (1678) shall, before the first tax determination at that rate, request and receive a statement of eligibility for each wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the importer shall cause to be submitted to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample of each distilled spirits, wine and flavor contained in the product; and

(2) A statement of composition listing—

(i) For wine, the kind (class and type) and percentage of alcohol by volume; and

(ii) For flavors, the name and percentage of alcohol by volume, and the name and quantity of each ingredient used in the manufacture of the flavor.

(c) Each time distilled spirits containing eligible wine or eligible flavors are imported into the United States, the importer shall prepare a certificate of effective tax rate computation showing the following:

(1) Name, address, and permit number of the importer;

(2) Kind (class and type) of product;

(3) Elements necessary to compute the effective tax rate in accordance with § 27.41 as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(iii) Proof gallons of distilled spirits derived from eligible flavors;

(4) After December 1, 1990, the date of the statement of eligibility of each eligible wine and of each eligible flavor;

(5) Effective tax rate applied to the product; and

(6) Signature of the importer or other duly authorized person under the following declaration:

I declare under the penalties of perjury that this certificate of effective tax rate computation has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(d) The importer shall file the certificate of effective tax rate computation with the district director of customs at the port of entry, at the time of entry summary, or, for distilled spirits to be withdrawn from customs custody under the provisions of subpart L of this part, furnish a copy to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18070, Apr. 30, 1990, as amended by T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

§ 27.77 Standard effective tax rate.

(a) In lieu of preparing a certificate of effective tax rate computation each time distilled spirits containing eligible wine or eligible flavors are imported as prescribed in § 27.76(c), an importer may have a standard effective

tax rate established based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product.

(b) To have a standard effective tax rate established, the importer shall cause to be submitted to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) The samples prescribed in § 27.76(b)(1) and an 8-ounce sample of the finished product;

(2) The statement of composition prescribed in § 27.76(b)(2);

(3) A statement of composition for the finished product listing the—

(i) Name of the product;

(ii) Quantity, alcohol content (percentage of alcohol by volume), and the kind (class and type) of each eligible wine or the name of each eligible flavor used in the manufacture of the product; and

(iii) Standard effective tax rate for the product computed in accordance with § 27.41.

(c) Where a standard effective tax rate has been previously approved for a product, an importer, in lieu of having a standard effective tax rate established, may use that rate. An importer desiring to use a previously approved standard effective tax rate shall obtain a copy of the approval from the person to whom it was issued and, over the signature of the importer or other duly authorized person, place the following declaration:

I declare under the penalties of perjury that this approval has been examined by me and, to best of my knowledge and belief, the standard effective tax rate established for this product is applicable to all like products contained in this shipment.

(d) A standard effective tax rate may not be employed until approved by the appropriate TTB officer. The importer shall file or furnish a copy of the standard effective tax rate approval in the manner prescribed in § 27.76(d). The use of a standard effective tax rate shall not relieve an importer from the payment of any tax found to be due. The appropriate TTB officer may at any time require an importer to immediately discontinue the use of a standard effective tax rate.

(Approved by the Office of Management and Budget under control Number 1512–0352)

[T.D. ATF–297, 55 FR 18070, Apr. 30, 1990; 55 FR 23635, June 11, 1990; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002; T.D. TTB–44, 71 FR 16946, Apr. 4, 2006]

Subparts F–G [Reserved]

Subpart H—Importation of Distilled Spirits In Bulk

§ 27.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (*i.e.*, in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C., 206) and Regulation 3 (27 CFR part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 27.133 to 27.134.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555))

[T.D. ATF–34, 41 FR 46864, Oct. 26, 1976]

§ 27.121 Containers.

Imported distilled spirits may be bottled in either domestic or imported containers conforming to the provisions of subpart N of this part.

(72 Stat. 1374; 26 U.S.C. 5301)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

Subpart I—Importer's Records and Reports

§§ 27.130–27.132 [Reserved]

RECORD AND REPORT OF IMPORTED LIQUORS

§ 27.133 General requirements.

Except as provided in § 27.134, every importer who imports distilled spirits,

wines, or beer shall keep such records and render such reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provision of part 31 of this chapter. Any importer who does not take physical possession of the liquors at the time of, but is responsible for, their release from customs custody shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and the date of release, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512–0352)

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

[T.D. ATF–2, 37 FR 22743, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

§ 27.134 Proprietors of qualified premises.

Importing operations conducted by proprietors of premises qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

[T.D. 6388, 24 FR 4824, June 12, 1959, as amended by T.D. 6477, 25 FR 6207, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

FILING AND RETENTION OF RECORDS AND REPORTS

§ 27.136 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate TTB officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with Customs recordkeeping requirements (See 19 CFR part 163).

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, they may maintain either loose-leaf or book records of the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF–116, 47 FR 51573, Nov. 16, 1982, as amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part, must be retained for not less than three years, and during this period must be available, during business hours, for inspection and copying by appropriate TTB or Customs officers. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where the appropriate TTB officer determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

[T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

OTHER RECORDS

§ 27.138 Transfer record.

The transfer record for imported spirits prescribed in § 27.172 shall show the:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with ''1'' each January 1;

(c) Name and distilled spirits plant number of the proprietor who received the spirits from customs custody;

(d) Country of origin;

(e) Name of foreign producer;

(f) Kind of spirits;

(g) Age, in years, months and days of the spirits;

(h) Proof of the spirits;

(i) Type and number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

§ 27.139 Package gauge record.

When required in this part, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number; and

(c) For each package:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Proof;

(5) Proof gallons;

(6) Name of warehouseman who received the spirits from customs custody; and

(7) Name of importer.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

§ 27.140 Certification requirements for wine.

(a) *Definitions.* When used in this section, the following terms have the meaning indicated:

Affiliate means any one of two or more persons if one of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons, and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has a controlling ownership interest. An affiliate also means any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

Importer means any person importing wine who must obtain a permit as provided in § 27.55.

Natural wine means the product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any cellar treatment authorized by subparts F and L of part 24 of this chapter and containing not more than 21 percent by weight (21 degrees Brix de-alcoholized wine) of total solids.

Produced, when used with reference to wine, means removed from the fermenter.

Proper cellar treatment means a production practice or procedure authorized by subparts F and L of part 24 of this chapter and, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

(b) *Certification*—(1) *General.* Except as otherwise provided in paragraph (b)(2) of this section, an importer of natural wine must have an original or copy of a certification from the producing country stating that the practices and procedures used to produce the imported wine constitute proper cellar treatment. The certification:

(i) Must be from a governmental or government-approved entity having oversight or control over enological practices in the producing country under the laws of that country;

(ii) Must include the results of a laboratory analysis of the wine conducted either by a government laboratory of the producing country or by a laboratory certified by the government of the producing country; and

(iii) Must be in the possession of the importer at the time of release of the wine from customs custody and may cover multiple importations provided that the wine in each case is of the same brand and class or type, was

made by the same producer, was subjected to the same cellar treatment, and conforms to the statements made on the certification.

(2) *Alternative certifications and exemptions*—(i) The following are alternatives to the producing country certification and laboratory analysis requirement described in paragraph (b)(1) of this section:

(A) In the case of natural wine produced and imported subject to an international agreement or treaty specifying that the practices and procedures used to produce the wine are acceptable to the United States, no producing country certification and laboratory analysis is required, unless that international agreement or treaty requires a certification, in which case the importer must have in his or her possession at the time of release of the wine from customs custody an original or copy of that certification.

(B) If an importer of natural wine or its affiliate owns or controls a winery operating under a basic permit issued under part 1 of this chapter, in lieu of a producing country certification and laboratory analysis, the importer may self-certify that the practices and procedures used to produce the wine constitute proper cellar treatment. The self-certification must be either in the format set forth in paragraph (c) of this section with blocks 1 through 4 completed or in an alternative format that sets forth the same information, and it must be in the possession of the importer at the time of release of the wine from customs custody. In the case of self-certification the importer also must have at the time of release from customs custody records to establish that the requirements for self-certification are met.

(ii) The following are exempt from any certification requirement under this section:

(A) Natural wine produced before January 1, 2005. However, in this case, the importer must have in his or her possession at the time of release of the wine from customs custody records to establish that the wine was produced before January 1, 2005.

(B) Importations of natural wine that are of a personal, non-commercial nature. Examples of non-commercial importations include importations by travelers, gift shipments between individuals, and importations by diplomats for embassy or consular use.

(C) Importations of natural wine that constitute commercial samples. Commercial samples include sales samples, samples for trade shows, and samples for laboratory analysis.

(D) Imported natural wine held on board international passenger carriers, such as cruise ships or airliners.

(c) *Form.* The format for certification referred to in paragraph (b) of this section is the following:

Certification of Natural Wine Imported into the United States

1. Producer name and address:
2. Description of wine:
3. Check applicable box: a. ☐ Producing country certification and laboratory analysis results completed below. b. ☐ Self-certification by importer completed below. An importer must be able to demonstrate the nature of the ownership or control as well as the nature of any affiliation.
4. Certification - I certify that the practices and procedures used to produce the wine described in block 2 constitute proper cellar treatment under 26 U.S.C. 5382 and 27 CFR 27.140. Name and address of certifying entity: Authorized signature: Name (print or type): Date (DD/MM/YY):
5. Analysis for wine described in block 2 Percentage alcohol (actual) by volume: Signature: Total sulphur dioxide (ppm): Name (print or type): Volatile acidity (grams per 100 mL): Date (DD/MM/YY): Name and address of laboratory:
6. TTB label approval identification number (required if certification is submitted subsequent to label approval):

(d) *Preparation of Certification.* The following rules apply for the completion of the certification set forth in paragraph (c) of this section:

(1) Block 1 must state the legal name and address (including country) of the producer of the wine.

(2) Block 2 must include a complete description of the wine, including its brand name, year of production, class or type, and country of origin.

(3) The importer must check the applicable box in block 3:

(i) The importer must check box 3a and ensure that blocks 4 and 5 are completed if no alternative certification applies to the wine under paragraph (b)(2)(i) of this section.

(ii) If paragraph (b)(2)(i)(B) applies to the wine, the importer must check box 3b and complete the certification in block 4.

(4) If the certification is submitted subsequent to approval of a label, the importer must complete block 6 by including the TTB identification number from the certificate of label approval, TTB Form 5100.31.

[T.D. TTB–31, 70 FR 49483, Aug. 24, 2005]

Subparts J–K [Reserved]

Subpart L—Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

§ 27.171 General provisions.

Imported distilled spirits in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001. Imported spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof, and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of 27 CFR part 19. However, distilled spirits plant proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody. The person operating the bonded premises of the distilled spirits plant to which imported spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the importer shall thereupon be relieved of his liability for such tax.

(Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

[T.D. ATF–62, 44 FR 71719, Dec. 11, 1979, as amended by T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

§ 27.172 Preparation of transfer record and package gauge record.

The person importing spirits under this subpart shall prepare a transfer record according to § 27.138. A separate transfer record shall be prepared for each conveyance. If the spirits are in packages he shall prepare a package gauge record according to § 27.139 and attach it to the transfer record. The transfer record and the package gauge record shall be prepared in triplicate, and, upon release of the spirits from customs custody one copy will be given to the customs officer, one copy will be forwarded to the appropriate TTB officer, and the original will be forwarded to the consignee.

(Approved by the Office of Management and Budget under control number 1512–0250)

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985, as amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.173 Inspection and release.

The customs officer shall not release distilled spirits under this subpart until he inspects the spirits. If it appears that losses in transit were sustained from any container, the customs officer shall gauge the spirits in such container and enter the elements of gauge on the transfer record if the spirits are in a bulk conveyance or on the package gauge record if the spirits are in packages. The customs officer shall enter on the transfer record the port of entry, carrier identification, warehouse entry number, applicable rate of duty, and serial number of any customs seals affixed to bulk conveyances. When all

customs requirements are complied with, he shall release the spirits for transfer to the distilled spirits plant by dating and signing on the transfer with his title the statement: ''To the best of my knowledge the information hereon is accurate and the spirits are released.'' The original of the transfer record with any attachments shall be retained by the consignee.

(Sec. 3, Pub. L. 90–630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

§ 27.174 Tank cars and tank trucks to be sealed.

Where a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

[T.D. 6477, 25 FR 6208, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 27.175 Receipt by consignee.

Proprietors of distilled spirits plants who receive imported spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody.

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

SOURCE: 50 FR 9200, Mar. 6, 1985, unless otherwise noted.

§ 27.181 General.

(a) The United States or any of its Government agencies may, upon filing proper customs entry, withdraw imported distilled spirits free of tax from customs custody, as authorized by 26 U.S.C. 5313 and under the provisions of this subpart. Before any distilled spirits may be withdrawn, a permit to procure the spirits shall be obtained from the appropriate TTB officer. A bond is not required for any Government agency to procure and withdraw spirits free of tax under this subpart.

(b) The provisions of subpart N of part 22 of this chapter cover the withdrawal of domestically produced tax-free spirits for use of the United States or any of its Government agencies.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1372, as amended, 1375, as amended (26 U.S.C. 5273, 5313))

§ 27.182 Application and permit, Form 5150.33.

(a) *General.* All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this subpart as it refers to permits on Form 5150.33.

(b) *Application.* (1) A Government agency of the United States must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate TTB officer, Form 5150.33 will be returned to the agency.

(2) If a Government agency intends to withdraw spirits free of tax under this part and part 22 of this chapter, Form 5150.33 may be annotated to cover both types of withdrawals.

(3) A separate permit is not required for each port of entry. The application, Form 5150.33, may be completed to indicate the applicable ports of entry in which spirits will be withdrawn from customs custody.

(4) A Government agency may specify on its application that it desires a single permit authorizing all sub-agencies under its control to procure and withdraw spirits free of tax under this subpart and subpart N of part 22 of this chapter; or, each Government location may individually file an application for a permit, Form 5150.33.

(5) Each application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign on behalf of the head of an agency or

sub-agency shall be furnished with the application.

(c) *Use of spirits.* Spirits withdrawn under this subpart may not be used for non-Government purposes.

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of Customs, and forward the original to the appropriate TTB officer for cancellation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

[50 FR 9200, Mar. 6, 1985, as amended by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.183 Use of permit, Form 5150.33.

Each Government agency shall retain the original of its permit, Form 5150.33, on file. When filing an initial customs entry to withdraw spirits free of tax from a port of entry, the agency shall furnish a photocopy of its permit to the district director of customs for retention. In the case of an agency holding a single permit for use of its subagencies, an attachment to the permit shall list all locations authorized to withdraw spirits free of tax from customs custody. Any subsequent requests for customs entry from the same port shall refer to the permit number.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

§ 27.184 Entry documents.

Entry documents for importation of tax-free spirits under this subpart shall record the serial numbers or other identifying numbers of the containers and the total quantity in proof gallons of the spirits to be entered.

[T.D. ATF–198, 50 FR 8559, Mar. 1, 1985]

§ 27.185 Customs release.

(a) Upon receipt of appropriate customs entry and a photocopy of a permit, Form 5150.33 or previous editions on Form 1444 (5150.33), the district director of customs shall, following an inspection of the shipment, release spirits free of tax to the Government agency named on the permit, or an attachment thereto.

(b) Customs officers shall not release spirits for shipment until the shipment has been inspected for losses in transit. If it appears that a container or containers have sustained losses in transit, the customs officers shall gauge the damaged container and prepare a package gauge record for the entire shipment, according to § 27.139. A copy of the package gauge record will be retained for the customs files and the original forwarded to the consignee agency.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

Subpart N—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6819, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 27.201 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–34, 41 FR 46865, Oct. 26, 1976]

§ 27.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of part 19, or subpart E of part 5 of this chapter, may be imported for packaging distilled spirits in the United States as provided in part 19 of this chapter.

[T.D. ATF–62, 44 FR 71720, Dec. 11, 1979]

§ 27.204 Distinctive liquor bottles.

(a) *Application*. Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be imported by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit TTB Form 5100.31 for approval prior to importation of such bottles into the United States. For empty bottles, the bottler shall obtain approval from the appropriate TTB officer on TTB Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval*. Properly submitted TTB Forms 5100.31 to import distinctive liquor bottles (filled), or, properly submitted TTB Forms 5100.31 to use distinctive liquor bottles (empty) which have been imported, shall be approved provided such bottles are found by the appropriate TTB officer to—

(1) Meet the requirements of 27 CFR part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved TTB Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If TTB Form 5100.31 is disapproved, the applicant shall be notified of the appropriate TTB officer decision and the reasons therefor. The applicant importer is responsible for furnishing a copy of the approved TTB Form 5100.31, including a photograph of the distinctive liquor bottle, to Customs officials at each affected port of entry where the merchandise is examined.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43951, Oct. 5, 1982, as amended by T.D. ATF–242, 51 FR 39526, Oct. 29, 1986; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.205 [Reserved]

§ 27.206 Bottles not constituting approved containers.

The appropriate TTB officer is authorized to disapprove any bottle, including a bottle of less than 200 ml. capacity, for use as a liquor bottle which he determines to be deceptive. The Customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the appropriate TTB officer that such bottle is not an approved container for distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF–114, 47 FR 43951, Oct. 5, 1982]

§ 27.207 Bottles to be used for display purposes.

Empty liquor bottles may be imported and furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. The importer shall keep records of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

[T.D. ATF–206, 50 FR 23956, June 7, 1985]

§ 27.208 Liquor bottles denied entry.

Filled liquor bottles, not conforming to the provisions of this subpart, shall be denied entry into the United States: *Provided*, That, upon letterhead application, in triplicate, the appropriate TTB officer may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of § 27.206, which, through unintentional error, do not conform to the provisions of this subpart, if he

finds that such release will not afford a jeopardy to the revenue.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

§ 27.209 Used liquor bottles.

The appropriate TTB officer may pursuant to letterhead application filed in triplicate, authorize an importer to receive liquor bottles assembled for him as provided in § 31.263 of this chapter. Used liquor bottles so received may be stored at any suitable location pending exportation for reuse. The importer shall keep records of the receipt and disposition of used liquor bottles.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. 6954, 33 FR 6819, May 4, 1968, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

Subpart O—Miscellaneous Provisions

§ 27.221 Alternate methods or procedures.

(a) *Application.* An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application, in triplicate, with the appropriate TTB officer. Each application must:

(1) Specify the name, address, and permit number of the importer to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate TTB officer must determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate TTB officer may approve the alternate method or procedure if such officer finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the appropriate TTB officer. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1512–0352)

[T.D. ATF–2, 37 FR 22743, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–172, 49 FR 14943, Apr. 16, 1984; T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

PART 28—EXPORTATION OF ALCOHOL

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