

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Parts 1, 17, 19, 24, 26, 28, 30, and 31**

[Docket No. TTB–2008–0004; T.D. TTB–92; Re: ATF Notice No. 870 and TTB Notice Nos. 83, 86, and 92]

RIN 1513–AA23

**Revision of Distilled Spirits Plant Regulations**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** In this document, the Alcohol and Tobacco Tax and Trade Bureau adopts as a final rule, with some changes, a proposed revision of its distilled spirits plant regulations. The revision modernizes the requirements for operating distilled spirits plants and includes a number of organizational changes to improve the layout of the regulatory texts. These changes make the regulations easier to apply, thereby facilitating compliance by distilled spirits plant proprietors and allowing those proprietors to operate in a more efficient manner. The revision also incorporates plain language principles in order to improve the clarity and readability of the regulatory texts.

**DATES:** *Effective Date:* This final rule is effective on April 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Thiemann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20220; telephone 202–453–2265.

**SUPPLEMENTARY INFORMATION:****Distilled Spirits Plants in General**

Distilled spirits taxation is a specialized area of Federal law. The following background material provides basic information about how distilled spirits plants operate and are regulated, and how taxes on distilled spirits are collected, under Federal law.

*Basic Definitions*

*Distilled spirits.* The term “distilled spirits” refers to those products that contain ethyl alcohol and are generally the result of distillation of fermented materials. This term does not apply to wine and beer, which generally are products of fermentation alone. Examples of distilled spirits products are vodka, whiskey, gin, brandy, cordials, liqueurs, and flavored brandies.

*Distilled spirits plants.* The term “distilled spirits plant” (DSP) refers to a plant at which distilled spirits are manufactured or produced, aged or stored, or packaged or bottled, for either beverage or industrial use.

*Federal Laws and Regulatory Authority*

Federal law prohibits the manufacture or production of distilled spirits in the United States at other than a registered DSP for which a permit has been issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB). While Federal law allows for the limited home production of wine and beer, no such provision exists for distilled spirits.

DSPs are regulated under the provisions of two laws, the Internal Revenue Code of 1986 (the IRC, codified as title 26 of the United States Code (26 U.S.C.)) and the Federal Alcohol Administration Act (the FAA Act, codified in title 27 of the United States Code (27 U.S.C.)). The IRC imposes an excise tax on distilled spirits, requires the registration of DSPs, mandates DSP proprietors to obtain permits not otherwise required by the FAA Act, and imposes strict controls over the operation of DSPs. The FAA Act imposes a requirement to obtain a basic permit and contains various consumer-protection provisions, including provisions related to the formulation, labeling, and advertising of alcohol beverages. The FAA Act also prohibits various types of trade practices within the alcohol industry, including DSPs.

Both the IRC and the FAA Act authorize the Secretary of the Treasury to prescribe regulations to carry out and enforce their provisions regarding the establishment and operation of DSPs. Those regulations are administered by TTB. The TTB regulations that concern DSPs, which are the subject of this document, are contained in part 19 of title 27 of the Code of Federal Regulations (27 CFR part 19).

*Major Regulatory Provisions*

A DSP consists of one or more of the following: Production, storage, processing, denaturation, and bottling facilities for beverage and industrial use distilled spirits. A DSP may be a large and complex plant having all of those facilities or may be a simple storage facility consisting of only one building or a small bottling facility with storage facilities. Production facilities are usually accompanied by storage facilities. Bottling facilities are often accompanied by storage facilities, and in fact must by law be accompanied by either a production facility or a storage facility. However, large storage facilities

are often not accompanied by bottling or production facilities.

*Registration.* Before commencing any of the operations discussed in the previous paragraph, the IRC requires that the DSP proprietor must first obtain approval of a notice of registration. This application for registration includes documents to set up distilling apparatus, environmental impact forms, personnel questionnaires, authorized signatories, and a statement of security.

*Permits.* Under the FAA Act, all persons must file for, and obtain, a basic permit before engaging in the business of:

- Distilling spirits;
- Rectifying, blending, or bottling (processing) distilled spirits; or
- Warehousing and bottling distilled spirits.

To maintain control over the industrial use of distilled spirits, the IRC requires that an operating permit be obtained before commencing the production, warehousing, or bottling of alcohol for industrial use. Specifically, a permit is required for:

- Distilling of spirits for industrial use;
- Bonded warehousing of spirits for industrial use;
- Denaturation of spirits;
- Bonded warehousing of spirits (without bottling) for nonindustrial use;
- Bottling or packaging of spirits for industrial use; or
- Any other distilling, warehousing, or bottling operations not required to be covered by a basic permit under the FAA Act.

*DSP bonded premises.* The physical premises of a DSP are divided into two technical categories—“bonded premises” and unbonded “general premises.” All activities relating to the distilling, storing, and processing (blending and mixing) of distilled spirits must be conducted on bonded premises. Most activities relating to taxpaid alcohol beverages conducted at the distilled spirits plant must be conducted on general premises.

Operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a DSP by a person who is qualified to carry on such operations under 27 CFR part 19 and who has obtained the FAA Act basic permits required by 27 CFR part 1, or, as appropriate, the operating permit required by part 19. However, certain other activities, such as those of apothecaries, customs bonded warehousemen, manufacturers of nonbeverage products, and users of specially denatured alcohol (SDA), may be carried on outside DSPs.

The physical continuity of a DSP must be unbroken except for separations that may include public waterways, thoroughfares, or carrier rights-of-way. In most instances, DSPs are also prohibited from being located in a dwelling house, in a shed, yard, or enclosure connected with a dwelling house, on board a vessel or boat, on premises where beer or wine is produced, in a retail liquor establishment, or where any other business is conducted.

**Bonds.** Normally, the distilled spirits tax is not collected while spirits are held on the “bonded” premises of a distilled spirits plant. The potential tax liability of the spirits held on bonded premises is guaranteed by an operations bond, and taxable removals from the bonded premises of a DSP are covered by a withdrawal bond.

The bond is a legally binding, written agreement involving three parties—the taxpayer, the surety (insurance or bonding company), and the U.S. Government. The purpose of the bond is to protect the financial interest of the Government. If for any reason the taxpayer fails to pay the tax, the surety is then obliged to pay the tax, up to the face amount (limit) of the bond.

**Other requirements.** In addition to registering, obtaining a permit, and providing a bond, DSP proprietors are required to comply with a number of regulatory provisions relating to: Plant security; production, storage, and processing of spirits; recordkeeping; inspection and audit; and filing of reports. These requirements are reflected in the part 19 regulations.

**Recordkeeping accounts.** All operations at a DSP are accounted for within four recordkeeping accounts—production, storage, denaturation, and processing. Since the facilities (tanks and rooms) of a DSP may be used for multiple purposes, the accountability for spirits must be maintained of necessity by appropriate records within the four accounts instead of by physical separation.

**Payment of taxes.** The Federal excise tax on distilled spirits attaches to the spirits as soon as they are produced, and the distilled spirits plant is held liable for the tax on all distilled spirits held in the bonded premises. The amount of Federal excise tax that a distilled spirits plant proprietor must pay is based on the taxable removal of the spirits from the bonded premises. There are two basic methods of paying the tax on distilled spirits withdrawn from bonded premises—deferred payment and prepayment. Under the deferred payment system, the proprietor may withdraw spirits from bond after tax

determination but before payment of tax. The excise tax is paid pursuant to a semimonthly tax return based on the amount of spirits removed from bond during each return period. Under the prepayment system, the proprietor must pay the distilled spirits tax after tax determination but before withdrawal of the spirits from bonded premises. Most DSP proprietors use the deferred payment system.

Currently, the Federal excise tax rate on distilled spirits is \$13.50 per proof gallon. The term “proof gallon” is unique to this particular commodity and means: A liquid gallon at 60 degrees Fahrenheit that contains 50 percent ethyl alcohol by volume.

Although the tax rate for distilled spirits is \$13.50 per proof gallon, many distilled spirits products are actually taxed at a lower rate. Many products contain added wine and/or flavors, and the IRC at 26 U.S.C. 5010 provides a tax credit for the wine and flavors content of the product. These credits effectively reduce the rate of excise tax paid on distilled spirits products that contain wine or flavors.

**Nontaxable transactions.** Under the IRC, certain types of shipments to and from a distilled spirits plant are permitted without payment of tax. Examples include:

- Shipments of bulk (unbottled) spirits from one registered distilled spirits plant to another. (Bottled spirits are not eligible for untaxed transfer in bond between plants.)
- Shipments of bulk imported spirits from U.S. Customs and Border Protection custody to a distilled spirits plant. (Only bulk imported spirits are eligible for this type of transfer.)
- Direct exports of products from the United States.
- Shipments to users of industrial alcohol (certain permit holders who use alcohol for medical, research, or industrial purposes).

### Rulemaking History

#### *ATF Notice No. 870*

On November 30, 1998, TTB’s predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), published in the **Federal Register** (63 FR 65720) a notice of proposed rulemaking, Notice No. 870, that solicited comments on proposed changes to several sections of the regulations in 27 CFR part 19. The proposed changes included: (1) Delegations of authority, (2) removing a special tax provision, (3) liberalizing the requirement for approval of certain changes in plant personnel or procedures, (4) reducing the paperwork

when plant premises are alternated with other premises, (5) providing for alternation of distilled spirits plant and brewery premises, (6) allowing denaturation and manufacture of articles to be done in a single, unified process, (7) specifying marks for packages of industrial spirits withdrawn taxpaid, (8) clarifying regulations that refer to a transfer record, and (9) incorporating into the regulations a provision of an ATF Industry Circular regarding alcohol fuel.

In addition to these proposed changes, ATF invited comments regarding the general recordkeeping system for distilled spirits plants prescribed in part 19.

In response to Notice No. 870, ATF received extensive comments from the Distilled Spirits Council of the United States (DISCUS), a trade association representing distilled spirits industry members with interests in the U.S. market. While DISCUS provided comments on the specific issues raised in Notice No. 870, it also asked that ATF consider a broad range of regulatory changes to part 19, essentially requesting the initiation of a complete revision of that part. In support of its request, DISCUS provided ATF with sample regulations that consisted of a “markup” version of the part 19 texts, along with numerous copies of variances (alternate methods or procedures) that ATF approved for members of the distilled spirits industry over the years. The amendments requested by DISCUS covered a broad range of issues and included reduced recordkeeping requirements for distilled spirits plants, greater use of commercial records, reduced reporting requirements, reduced requirements for reporting changes affecting the DSP’s registration, liberalized use of DSP premises, storage of distilled spirits on bonded premises through “constructive segregation” based on commercial records, and inclusion of alternative method or procedure approvals in the regulations for universal applicability.

ATF also received comments from Equistar Chemicals, LP in response to Notice No. 870. Equistar is a producer of industrial ethyl alcohol, and its comments addressed issues in Notice No. 870 related to industrial alcohol. Equistar also commented on other issues affecting distilled spirits plants, such as the amendment of plant registrations, recordkeeping, denaturation, and gauging.

After reviewing the comments received in response to Notice No. 870, ATF concluded that the amendments proposed in that notice were not extensive enough to address the changes

that had taken place in the industry since the last major revision of the distilled spirits plant regulations, which took place when ATF implemented the Distilled Spirits Tax Revision Act of 1979, commonly referred to as "All in Bond." No further action was taken by ATF in regard to this matter.

#### *TTB Notice No. 83*

As the successor to ATF, TTB undertook a comprehensive review of the distilled spirits plant regulations in part 19, taking into account the comments received in response to Notice No. 870, intervening statutory changes, and other issues that had come to the attention of TTB that appeared to warrant changes to the part 19 regulations. As a result of this review, on May 8, 2008, TTB published in the **Federal Register** (73 FR 26200) Notice No. 83, a notice of proposed rulemaking that set forth a complete revision of part 19 and superseded Notice No. 870.

The preamble of Notice No. 83 contained a detailed discussion of the proposed changes reflected in the revised part 19 texts. The following points are noted regarding the proposed changes:

1. Each section of the regulations was examined for clarity and rewritten as necessary, with application of plain language principles (use of active voice and shorter sentences and paragraphs, elimination of jargon and unnecessary technical terms, and use of gender-neutral language) where practicable. Many lengthy sections of the regulations were split into multiple sections to make them more understandable and readable. In addition, in some cases textual information was converted to a table format for easier reference.

2. The individual sections within part 19 were rearranged into a more logical order. In some cases this involved the reordering of sections within a subpart, and in other cases this involved the creation of a new subpart to set forth regulations involving the same general subject matter that previously was dealt with in more than one subpart. For example, prior to this revision, information regarding distilled spirits taxes was found in two separate subparts, subpart C (containing basic information about distilled spirits taxes) and subpart P (containing information regarding determination of taxes and the filing of tax returns); the revision combines these provisions in one new Subpart I, Distilled Spirits Taxes. In addition, duplicative sections were eliminated.

3. Amendments to the IRC made by the Taxpayer Relief Act of 1997 were incorporated into the regulations,

including provisions whereby:

(a) Imported bottled spirits that were taxpaid through Customs may be returned to bond at a DSP and a claim for a credit, refund, or abatement may be filed for the return, (b) beer to be used in the production of spirits can be received at a DSP without payment of tax, and (c) taxpaid beer can be removed from a brewery and shipped to a DSP with refund or credit of tax.

4. The revised regulations allow for expanded use of letterhead applications and letterhead notices for purposes of amending a registration or permit in lieu of filing an entire new registration or permit application.

5. The regulations were revised to allow for the use of mass flow meters that meet certain volumetric tolerances for tax determination, as well as the use of other bulk gauges for general gauging, without prior approval from TTB.

6. In view of the increased number of limited liability companies (LLCs) and limited liability partnerships (LLPs) that own and operate DSPs, references to these types of business entities were included in the provisions that govern the qualification of DSPs.

7. The revised regulations include the addition of a provision that would permit the alternation of DSP premises with adjacent brewery premises.

8. The revised regulations require alcohol fuel plants (AFPs) to file an application in order to receive spirits in bond. This corrected an oversight in the regulations because 26 U.S.C. 5005(c)(1) establishes tax liability during a transfer in bond based on an application filed by the consignee. Under this change, AFPs would be required to file the same applications as regular DSPs.

9. The revised regulations eliminate the requirement that proprietors file form TTB F 5110.34, Change in Plant Status, when DSP premises are curtailed or extended. Under the revised regulations, the proprietor would document curtailment or extension with a record kept at the plant or by commercial records.

10. The revised regulations retained the requirement that the closure on each container requires breaking to gain access to the contents of the container. However, the requirement that a portion of the closure remain on the container after its breakage was eliminated, because that particular feature is not a requirement of the underlying IRC provision at 26 U.S.C. 5301(d).

11. The revised regulations clarify that required records may consist of documents created in the ordinary course of business rather than records created to expressly meet the requirements of part 19, if those

documents contain the information that the regulations require. However, the revised regulations do not include a DISCUS recommendation that we eliminate most of the internal records of activities within a DSP, such as the production account, the storage account, and the processing/denaturation account, because the internal accounts are specifically called for in the IRC and they are discussed in the legislative history relating to "all-in-bond."

Notice No. 83 invited the public to make comments on the proposed regulations by August 6, 2008. The comment period for Notice No. 83 was extended twice. On May 8, 2008, after a request from an industry member, TTB published in the **Federal Register** Notice No. 86 (73 FR 44952), which extended the comment period by 90 days. On October 29, 2008, after a request from DISCUS, TTB published in the **Federal Register** Notice No. 92 (73 FR 64287), which extended the comment period by an additional 90 days. The comment period for Notice No. 83 therefore closed on February 3, 2009.

#### *Comments Received in Response to Notice No. 83*

In response to Notice No. 83, TTB received 7 comments. Six of the comments expressed strong support for the revisions to part 19 and commented on specific areas of agreement and recommendations for further changes. One commenter asked a specific question regarding a particular regulatory requirement. Descriptions of the comments and TTB responses follow.

#### *Comment 1*

A comment from a manufacturer of nonbeverage products was supportive of TTB's efforts to modernize the DSP requirements. The commenter specifically addressed the application of part 19 to cosmetic and topical over-the-counter drug products such as instant hand sanitizers and skin cleansers. The commenter noted that its products are subject to several Federal laws and to regulation by the FDA as well as TTB.

The commenter stated that due to growth in the hand sanitizer product category, TTB should create category-specific regulations, similar to the regulations for vinegar plants and alcohol fuel plants.

*TTB Response:* TTB notes that vinegar plants and alcohol fuel plants differ from cosmetics containing alcohol because vinegar as an end product does not contain alcohol, and alcohol fuel plants are created as a category by statute. The commenter is correct that

TTB does not have specialty categories for denatured alcohol products in its regulations. Denatured alcohol products include cosmetics, flavors, fuel, over-the-counter products, medical products, laboratory products, industrial products such as solvents and cleaners, and food ingredients, just to name a few. Creating category-specific regulations would create an increased regulatory burden on those entities that manufacture multiple types of denatured products. Also, adding new nonbeverage product categories within part 19 is outside the scope of Notice No. 83, and it would be inconsistent with the Administrative Procedure Act to make such substantive changes not proposed in Notice No. 83 in this final rule document without notice and comment. However, we agree that hand sanitizer products have grown as a market segment since their introduction in 1988. We currently are undertaking a rulemaking project relating to 27 CFR Part 20, Distribution and Use of Denatured Alcohol and Rum, and we will retain these comments for consideration in that project.

The commenter also noted that it has several production and recordkeeping processes in place that have been validated by the FDA, but that are not recognized as meeting TTB requirements without other TTB mandated records and reports.

*TTB Response:* TTB has a unique responsibility to protect the revenue while FDA regulations are designed to ensure safe products, not to protect the revenue. Thus, TTB's reporting and recordkeeping requirements are different from those of FDA.

The commenter listed several proposed changes that it suggests apply specifically to cosmetic and over-the-counter producers:

- "Exempt companies from monthly reporting if they are only purchasing and using [specially denatured alcohol (SDA)] \* \* \*. Document the yearly usage of SDA alcohol on the User's Report of Denatured Spirits (TTB Form 5150.18)."

*TTB Response:* Companies that only purchase and use SDA may operate under the provisions of 27 CFR part 20. Under § 20.264(b), SDA users are required to file an annual report as opposed to a monthly report. However, monthly reporting is a requirement for DSPs because it provides information to TTB to ensure that the revenue is protected. TTB would not know what operations were occurring at a DSP if reports were not filed on a more frequent basis.

- "Allow denaturants other than the specified SDA formulations based on pre-approval of the TTB through

submission of formulas on form 5150.19."

*TTB Response:* This process is already permitted under 27 CFR 21.91.

- "Maintain Special Tax Stamp (form 5630.6A)."

*TTB Response:* The requirement to maintain a special tax stamp was repealed by the American Jobs Creation Act of 2004. Therefore, we have no authority to require this.

The commenter also stated that the quarterly physical inventory of denatured spirits required in proposed § 19.394 is unnecessary due to the records and systems maintained to coordinate inventory of raw materials and cosmetic and over-the-counter (OTC) products. The commenter recommended that manufacturers of topical OTC drugs and cosmetics be required to allow TTB to access inventory records and perform a physical inventory annually without a date stipulation. We note that DISCUS made a similar recommendation in its comments to ATF Notice No. 870, but we did not adopt this recommendation in Notice No. 83.

*TTB Response:* The shorter time period between quarterly versus annual inventories makes it easier for both TTB and a proprietor to reconcile discrepancies and thereby protect the revenue. A proprietor may continue to apply for approval of an alternate procedure pursuant to § 19.26, and TTB may grant such an alternate procedure if appropriate.

The commenter stated that the serial number for records required in various subparts should not include the requirement that the serial number commence with "1" at the beginning of each calendar or fiscal year. The commenter proposed that as long as the serial or identifying number meets the requirements of § 19.572, concerning the format of records, it should be considered satisfactory.

*TTB Response:* We agree that a unique identifier is sufficient to identify a particular record, and we have amended §§ 19.618 and 19.620 in this final rule document to allow unique identifiers that do not necessarily begin with the number "1" each year.

Finally, the commenter recommended amending the regulations to allow for letterhead or single form notification of changes to the permit regarding an address change that does not involve a physical move.

*TTB Response:* We agree that a letterhead notice is sufficient to notify TTB of a change of address that does not involve a physical move or any change in physical area or layout of a DSP. We have added a new section, § 19.691, to

address changes of address not involving a change in location.

#### Comment 2

A manufacturer of nonbeverage products stated that the changes proposed by TTB would indeed help streamline the many processes involved in the operations of a distilled spirits plant. The commenter listed eight specific areas of the part 19 revision that it particularly supported:

- The use of plain language while minimizing the use of jargon and technical terms;
- The restructuring of information to consolidate major topics and bring like information together;
- The expanded use of letterhead notices for reporting certain changes such as changes in officers and directors;
- The use of a single area operations bond to cover all of the proprietor's plants in the United States;
- The use of mass flow meters for all required bulk gauges at a DSP;
- The allowance for a unified process for denaturation and article manufacture;
- The allowance for a single gauge measurement when filling containers from tanks; and
- The ability to file computer-generated reports and forms.

In addition, the commenter noted three areas of regulation where it suggested further changes.

First, the commenter requested that TTB allow an average tare (that is, the weight of an empty package) to be used for gauging individual packages (drum, barrel, or similar container of spirits (see the definition of "package" in § 19.1)). The commenter noted that the variance for package tare is often less than 0.25 lb.

*TTB Response:* We believe that the degree of variance can be significant. In the preamble to Notice No. 83, we addressed a similar recommendation made in comments to ATF Notice No. 870 and we explained that we did not adopt this recommendation in the proposed rule because TTB requires an accurate gauge of spirits that are withdrawn from bonded premises. Accordingly, we are not adopting the commenter's proposal in this final rule. The requirement that the proprietor establish the actual tare of each package to be withdrawn from bond appears at § 19.288.

Second, the commenter suggested that TTB allow minimum amounts of denaturants rather than specific amounts of denaturants.

*TTB Response:* Part 21 of the TTB regulations sets forth specific formulas

for denatured spirits, not part 19, and therefore such a change is not appropriate in this rulemaking action. We have noted this comment for possible future rulemaking involving part 21.

Third, the commenter suggested that temporary permit delivery addresses be allowed through a letterhead notification process. The commenter noted that temporary situations, such as road construction or utilities maintenance, occasionally require deliveries to alternate addresses such as a side entrance, but that the current regulations require permittees to amend their permits for each address change.

*TTB Response:* We agree that there should be provisions for temporary changes to a delivery address, without a change in the location or street address of the plant, and that a letterhead notice provides sufficient notice to TTB. Accordingly, for the final rule we have incorporated this change in the language of § 19.118

#### Comments 3 and 4

TTB received two comments from a large ethanol producer that holds a number of DSP and Alcohol Fuel Plant (AFP) permits. The commenter noted that it supports the streamlining of procedures and the overall organizational improvements proposed in the revisions to part 19.

In its first comment, the commenter referred to two areas of the Notice No. 83 preamble with which it disagrees. Both areas relate to TTB's interpretation of 26 U.S.C. 5181, which relates to AFPs. First, the commenter stated that it believes "the interpretation that an AFP permit may be granted to a facility that will solely receive and not produce spirits is inconsistent with the law that established the AFP." Similarly, the commenter suggested that TTB should not allow the establishment of an AFP for the purpose of receiving imported alcohol.

*TTB Response:* As noted in Notice No. 83, while the Bureau had formerly interpreted 26 U.S.C. 5181(a)(1) to mean that all alcohol fuel plants must produce distilled spirits, it is now the position of the Bureau that a person may establish an AFP solely for the receipt and processing of distilled spirits for fuel use. We also noted that we had already set the precedent that receipt of distilled spirits counts as "production" at an AFP (see former § 19.956, which treated receipts as production.) Section 5181 of the IRC was established to generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes. As fuel needs have changed dramatically, the

goal of the Bureau's AFP regulations is to ensure adequate supplies of fuel ethanol. We find that it is appropriate to read the applicable law, 26 U.S.C. 5181, as permitting facilities to qualify as AFPs even when their production operations consist solely of blending ethanol with authorized denaturants for the purpose of producing alcohol fuels. Consistent with the goal stated above, as well as 26 U.S.C. 5232 which provides for the receipt of imported spirits by DSPs, TTB does not distinguish, in this case, between domestically produced and imported ethanol.

In its second comment, the commenter raised specific issues that it believed should be addressed in the revision of part 19, and provided markups of the various regulatory sections involved in its recommendations. Specifically, the commenter's suggestions and TTB's responses to those suggestions are as follows:

- In addition to the performance limits for use of mass flow meters provided in the proposed regulation, suggested providing specific performance limits for volumetric flow meters and other equipment such as seals and density meters.

*TTB Response:* The new part 19 regulations, at § 19.284, allow the use of mass flow meters for tax determination purposes, as well as volumetric determinations, and establish specifications for their performance. In regard to such equipment as seals and density meters, the Bureau does not receive a significant number of requests for the use of these types of equipment and evaluates them, when necessary, on a case-by-case basis.

- Suggested that gauging by accurate flow meter and by accurate density meter, as proposed in Notice No. 83, be reflected in part 30 of the TTB regulations. The commenter recommended a direct final rule for part 30 to harmonize with the updated part 19.

*TTB Response:* The new part 19 regulations, at § 19.188, allow either the use of the gauging methods specified in part 30 or the use of accurate meters, so further changes to this part are unnecessary in regard to distilled spirits. We do not believe it is appropriate to amend part 30 because part 30 applies to other products in addition to distilled spirits. Additionally, any such amendment would be beyond the scope of this rulemaking action.

- Made several suggestions about receipt of denatured spirits at a DSP and return to bonded premises. One such suggestion was that denatured spirits

should be permitted on bonded premises for comingling, storage, or withdrawal even after they had been previously removed.

*TTB Response:* The IRC in section 5215 permits distilled spirits on which tax has been determined to be returned to bonded premises only for destruction, denaturation, redistillation, reconditioning or rebottling. Further, IRC section 5612(a) states that, with some exceptions not applicable here, no distilled spirits on which tax has been paid or determined shall be stored or allowed to remain on the bonded premises of any distilled spirits plant, under the penalty of forfeiture of all spirits found. The TTB regulations in part 19 provide alternatives, such as transfers in bond and alternations of premises.

- Suggested that fuel alcohol produced at an AFP be considered completely denatured alcohol.

*TTB Response:* Section 5181 of the IRC, which provides authority for TTB to permit AFPs, requires that distilled spirits withdrawn must be rendered "unfit for beverage use." Section 5214(a)(1) of the IRC authorizes the withdrawal of distilled spirits from a DSP after denaturation for specific purposes, and section 5214(a)(12) separately authorizes the withdrawal free of tax for distilled spirits produced under section 5181. The IRC does not refer to alcohol produced at an AFP as "denatured" and clearly intends to distinguish the term "denatured" as used for DSPs in general and "unfit for beverage use" as used for alcohol produced for fuel use under the authority of section 5181.

- Suggested the proposal of a direct final rule for part 21 of the TTB regulations dealing with completely denatured alcohol to harmonize the regulations for fuel produced by an AFP and CDA 20 produced by a DSP.

*TTB Response:* This final rule, which covers proposed substantive changes to part 19, is not an appropriate venue for making changes to other parts of the TTB regulations. We may consider this proposal in future rulemaking.

- Suggested allowing AFPs to send samples of undenatured spirits to a lab off the bonded premises similar to the procedures for DSPs.

*TTB Response:* TTB is considering making a number of substantive changes to the regulations governing AFPs in a separate rulemaking initiative. We will consider this proposal in that rulemaking action.

- Suggested removing the requirement for TTB approval for sending samples to a recognized commercial laboratory.

*TTB Response:* The Bureau is not adopting this suggestion as TTB needs to approve a DSP's transfer activities on a case-by-case basis. We look at a number of facts, including risk to the revenue and compliance history of the DSP.

- Suggested that TTB remove mark requirements found in proposed § 19.495 for bulk conveyances.

*TTB Response:* Section 1263 of title 18 of the U.S.C. (18 U.S.C. 1263) provides criminal sanctions for shipping distilled spirits without certain information: The name of the consignee, the nature of its contents, and the quantity contained therein. The requirements of § 19.495 are consistent with this statute. We note that both the statute and § 19.495(b) allow shippers to supply the information on a document as opposed to marks on the conveyance.

- Suggested changing proposed § 19.11 to allow time for verification of credentials in order to comply with potential site security and Homeland Security issues.

*TTB Response:* We do not adopt the suggestion because 26 U.S.C. 5203(b) prescribes the requirement for the right of immediate entry and examination, and TTB officers must be able to access facilities whenever necessary to protect the revenue or to determine if internal revenue laws have been violated. TTB is also concerned with site security issues and is willing to work with proprietors on site security and Homeland Security issues as they arise.

- Suggested changing the alternate method or procedure process to include approval for all permit holders.

*TTB Response:* We do not adopt this suggestion because not all alternate method or procedures are appropriate for industry-wide approval. Alternate methods and procedures must be evaluated and approved on a case-by-case basis. If a member of the public wishes to suggest changes to the methods or procedures contained in the regulations for use by all permittees, that person may submit a petition for rulemaking to TTB.

- Suggested adding the phrase "on the bonded premises" after "All pipelines" in § 19.187.

*TTB Response:* We do not accept this proposal because § 19.187 is intended to apply to all pipelines at a DSP, whether or not they are on bonded premises. The purposes of this section are to protect the revenue and to permit ready access by the appropriate TTB officers to conduct examinations.

Comments 5 and 6

TTB received a comment from DISCUS written on behalf of a coalition

of DISCUS members and another industry member. TTB received an additional comment from the industry member which expressed support for DISCUS's comments and provided further details on how the proposed changes to part 19 would affect its operations.

Much of DISCUS's comment related to its suggestion that TTB adopt its concept of "constructive segregation" for various types of products (wine, beer, spirits, or flavors) or tax status (taxpaid, nontaxpaid, or in customs custody).

*TTB Response:* While we might agree that in certain circumstances, constructive segregation provides adequate protection to the revenue, we note that the majority of DSPs do not have the sophisticated equipment necessary to maintain segregation through records alone. Accordingly, an across-the-board regulatory constructive segregation provision would not be appropriate. However, proprietors may submit a request for approval of the use of constructive segregation as an alternate method or procedure under new § 19.27 and we will evaluate such a request on a case-by-case basis, taking into account all relevant factors, including the adequacy of the protection of the revenue and the proprietor's compliance history.

DISCUS also proposed that TTB eliminate the requirements to submit diagrams showing extended and curtailed premises, and that TTB not adopt the proposal to require submission of an application and/or letterhead notice for alternations and extensions of premises.

*TTB Response:* We are not adopting these suggestions because, in order to ensure compliance with statutory requirements related to revenue protection, we must receive specific information about the layout of a DSP. However, proprietors may continue to submit a request for approval of an alternate method or procedure to vary from the regulatory requirements, and we will consider approving such requests on a case-by-case basis.

DISCUS repeated the comment it made to Notice No. 870 that suggested a 200-mile rule for continuity of premises.

*TTB Response:* In the preamble to Notice No. 83, we explained that we would not adopt a 200-mile rule and the current comment does not provide sufficient justification for any change of our position. We will continue to evaluate requests for alternate methods or procedures concerning plant continuity on a case-by-case basis, each analysis to be based upon multiple factors. Generally, we believe that the

"same general location" must not be too large an area so that the revenue is placed at risk. Also, because a distance of 200 miles could extend over a multi-state area and would cross over into different field offices within TTB, such a distance would create administrative difficulties for TTB.

DISCUS also commented on TTB's proposed changes to alcohol fill tolerances. It suggested that the Bureau eliminate the requirement that there be approximately the same number of overfills and underfills for each lot bottled.

*TTB Response:* We are not adopting this suggestion because this regulatory requirement ensures that the proprietor accurately fills bottles, which supports proper collection of the revenue and protects consumers from deception. It is the responsibility of proprietors to ensure that their bottling equipment accurately fills bottles of spirits.

In order to assist proprietors in determining the standards for fill tolerances, we proposed a specific standard of plus or minus 2 percent for fill. DISCUS and the industry member state that this tolerance is too small for small bottle sizes.

*TTB Response:* We agree and have adopted a stepped approach to tolerances similar to fill tolerances used for wine found in 27 CFR 24.255(b). In evaluating DISCUS's and the industry member's slightly different proposals for using a stepped approach similar to that used in wine regulations, we found a 9 percent tolerance, as proposed for the smallest bottle sizes, to be too large. The revised tolerances are found in § 19.356 and range from 1.5 percent for bottles 1.0 liter and above to 4.5 percent for bottles 100 mL and below.

Comment 7

An individual commented on the provisions of § 19.387, "Ensuring the quality of denaturants." The commenter suggested that TTB reapply an exception that appeared in the ATF regulations prior to 1979 for certain denaturants that were deposited in storage under direct supervision of the assigned ATF officer. The commenter noted that the prior regulation stated, in part, "Synthetic oils approved by the Director, essential oils as defined in Part 212 of this chapter, pure chemicals (liquid or solid), or U.S.P. or N.F. substances used as denaturing materials, deposited in storage under direct supervision of the assigned officer in the original sealed package of a reputable manufacturer of chemicals, bearing a label descriptive of the contents placed thereon by the manufacturer, need not

be tested except when required by the Director.”

*TTB Response:* The responsibility for security and purity of denaturants lies with the proprietor of the plant. Because denaturants could be adulterated by various sources, or otherwise be of nonconforming quality, it is the responsibility of the proprietor to ensure that denaturants conform to the specifications prescribed in part 21 of the TTB regulations. The exception that applied prior to 1979 was applicable to denaturants deposited in storage under direct supervision of an ATF officer. Because TTB does not have officers assigned to each DSP, it would be inappropriate to retain that exception. However, it is not the intention of TTB that the proprietor be required to test every lot of every denaturant. We have modified § 19.387 to more clearly state when testing is required and that the testing standards of that section apply only if a proprietor tests any given lot.

**Changes to the Proposed Regulations in This Final Rule**

After careful consideration of the comments received in response to Notice No. 83, as discussed above, TTB has made several changes to the proposed part 19 regulatory texts contained in that notice of proposed rulemaking. As discussed below, TTB is also making other changes to the proposed part 19 regulatory texts. These changes are technical in nature; they provide additional mailing options for industry members and reflect changes made to part 19 by final or temporary rulemakings issued after the publication of Notice No. 83. TTB also has updated cross-references to part 19 contained in other parts of its regulations in 27 CFR

chapter I. In addition, TTB has made technical corrections or other nonsubstantive changes to the proposed part 19 regulatory texts to correct errors or inconsistencies in format, style, grammar, or spelling. None of these corrections or other nonsubstantive changes affects any regulatory or recordkeeping requirement contained in the proposed part 19 regulatory texts as published in Notice No. 83.

*Private Delivery Services*

In light of the wide-spread use of private courier and delivery services by the public and government agencies, and in accordance with the IRC at 26 U.S.C. 7502(f), TTB is adding the option to send tax returns and remittances by private courier and delivery services to the requirements found in § 19.238, Payment by mail or courier. While this change to part 19 was not included in Notice No. 83, we believe this change will afford industry members, the general public, and TTB greater flexibility in choosing delivery methods for documents and other items while continuing to provide documented sending and delivery dates.

TTB will use the date of tender to the delivery service as the date of delivery if a proprietor sends a return or remittance to TTB by the use of traceable delivery services, provided those services are available to the general public and are at least as timely and reliable as the U.S. mail and provided the date on which items are given to the service for delivery are recorded by the service. These changes to § 19.238 follow the language used in 26 U.S.C. 7502(f) regarding timely mailing and the use of private delivery services.

*Subsequent Regulatory Changes*

Subsequent to the publication of Notice No. 83, TTB published two Treasury Decisions that amended regulatory provisions of part 19. Changes to the regulatory text in this final rule reflect these provisions:

- T.D. TTB-89, published in the **Federal Register** (76 FR 3502) on January 20, 2011, updated and reissued temporary rules regarding semimonthly and quarterly payment of tax. Provisions reflecting these subjects are found in this document at §§ 19.234-19.237 and § 19.465.

- T.D. TTB-84, published in the **Federal Register** (75 FR 16666), on April 2, 2010, reflected the removal of the requirement for Special (Occupational) Tax and implemented dealer registration requirements. These provisions are found in subpart H of part 19 in this final rule.

*Changes to Part 19 Cross-References Elsewhere in 27 CFR*

The revision of part 19 contained in this final rule also requires the revision of the cross-references to specific part 19 subparts and sections contained in other parts of the TTB regulations in 27 CFR chapter I. Except for the regulatory changes inherent in the revision of part 19 contained in this final rule, the corrections to the cross-references described below do not change any recordkeeping or regulatory requirement outside of part 19; the changes to these cross-references are merely technical in nature.

The cross-references to part 19 requiring changes in 27 CFR chapter I are shown in the chart below:

CHANGES IN PART 19 CROSS-REFERENCES IN 27 CFR CHAPTER I

In section:	Remove the reference to:	and replace with a reference to:
§ 1.82(a) .....	§ 19.157 .....	§ 19.91
§ 17.162(d) and (f) .....	§ 19.780 .....	§ 19.626
§ 17.163(a) .....	§ 19.780 .....	§ 19.626
§ 24.226 (1st sentence) .....	§ 19.510 .....	§ 19.407
§ 24.226 (3rd sentence) .....	§ 19.508 .....	§ 19.405
§ 24.235(a) .....	§ 19.522(c) .....	§ 19.233
§ 26.199f(a) .....	§ 19.562 .....	§ 19.462
§ 26.293(a)(3) .....	subpart R .....	subpart S
§ 28.118 .....	subpart U .....	subpart Q
§ 30.31(d) .....	§ 19.383 .....	§ 19.353
§ 30.52 .....	§ 19.722 .....	§ 19.582
§ 31.45(b) .....	§ 19.58 .....	§ 19.5
§ 31.65(a) .....	§ 19.58 .....	§ 19.5

**Existing Alternate Methods or Procedures**

By changing the part 19 regulations to provide for many of the methods or

procedures formerly approved as alternate methods or procedures, these regulations have made a number of former approvals obsolete. However,

there are some preexisting alternate methods or procedures that we did not make universally applicable and that we did not intend to revoke with this

revision to part 19. Accordingly, any proprietor with a valid, unrevoked alternate method or procedure issued under the authority of the current § 19.62 (recodified in the new § 19.26) that is not contrary to the new regulations may continue to use the approval. Note, however, that any change in law or regulation that makes the alternate method or procedure contrary to law or regulation revokes the alternate method or procedure by the application of law.

It is the proprietor's responsibility to ensure that these existing alternate methods or procedures are not contrary to the new regulations, that is, that they remain consistent with the purpose and effect of the methods and procedures prescribed in this revised part. A proprietor may write to the Director, Regulations and Rulings Division, or the Director, National Revenue Center, as appropriate, to request that approvals in existence prior to the adoption of this final rule be reevaluated under the new regulations.

Any conditions in alternate methods or procedures continue to apply. TTB may revoke any alternate method or procedure if there is jeopardy to the revenue or if the method or procedure increases cost to the Government or hinders TTB's administration of part 19.

**Derivation Table for Proposed Part 19**

The following table shows the derivation of the new sections of regulations. It is cross-referenced between the new section numbers in the revised 27 CFR part 19 regulations contained in this final rule document and the section numbers in the existing part 19 regulations in effect at the time of publication of this final rule.

Requirements of new section:	Are derived from current section:
19.0 .....	19.1
<b>Subpart A</b>	
19.1 .....	19.11
19.2 .....	19.2
19.3 .....	19.3
19.4 .....	19.57
19.5 .....	19.58
<b>Subpart B</b>	
19.11 .....	19.81
19.12 .....	19.86
19.13 .....	19.75
19.14 .....	19.4
19.15 .....	19.61
19.16 .....	19.724
19.17 .....	19.82
19.18 .....	19.83
19.19 .....	19.79
19.20 .....	19.77
19.26 .....	19.62

Requirements of new section:	Are derived from current section:
19.27 .....	19.62
19.28 .....	19.73
19.29 .....	19.70, 19.74
19.31 .....	19.63
19.32 .....	19.65
19.33 .....	19.66
19.34 .....	19.71
19.35 .....	19.71
19.36 .....	19.67
19.37 .....	19.67
19.38 .....	19.78
19.45 .....	19.100

**Subpart C**

Requirements of new section:	Are derived from current section:
19.51 .....	New
19.52 .....	19.131
19.53 .....	19.132
19.54 .....	19.133
19.55 .....	19.68, 19.72
19.56 .....	19.134
19.58 .....	19.97
19.59 .....	19.98
19.60 .....	19.99

**Subpart D**

Requirements of new section:	Are derived from current section:
19.71 .....	19.151
19.72 .....	19.151
19.73 .....	19.152
19.74 .....	19.168
19.75 .....	19.166
19.76 .....	19.153
19.77 .....	19.170, 19.324
19.78 .....	19.156
19.79 .....	19.169
19.80 .....	19.154
19.81 .....	19.155
19.91 .....	19.157
19.92 .....	19.158
19.93 .....	19.167
19.94 .....	19.165
19.95 .....	19.159
19.96 .....	19.161
19.97 .....	19.162
19.98 .....	19.160
19.99 .....	19.163

**Subpart E**

Requirements of new section:	Are derived from current section:
19.111 .....	New
19.112 .....	19.180
19.113 .....	19.182
19.114 .....	19.184
19.115 .....	19.185
19.116 .....	19.186, 19.187
19.117 .....	19.188
19.118 .....	19.189
19.119 .....	19.190
19.120 .....	19.191
19.121 .....	19.192
19.122 .....	19.193
19.123 .....	19.153(b)
19.126 .....	19.180
19.127 .....	19.181
19.128 .....	19.182
19.129 .....	19.183
19.130 .....	19.184
19.131 .....	19.185
19.132 .....	19.186, 19.187
19.133 .....	19.188
19.134 .....	19.189
19.135 .....	19.191

Requirements of new section:	Are derived from current section:
19.141 .....	19.201
19.142 .....	19.202
19.143 .....	19.203 through 19.206
19.144 .....	19.207
19.147 .....	19.211

**Subpart F**

Requirements of new section:	Are derived from current section:
19.151 .....	19.231, 19.232
19.152 .....	19.231
19.153 .....	19.233
19.154 .....	19.234
19.155 .....	19.235
19.156 .....	19.236
19.157 .....	19.237
19.161 .....	19.231, 19.232
19.162 .....	19.241
19.163 .....	19.242
19.164 .....	19.243
19.165 .....	19.244
19.166 .....	19.245
19.167 .....	19.246
19.168 .....	19.247, 19.248
19.169 .....	19.248
19.170 .....	19.249
19.171 .....	19.250
19.172 .....	19.251
19.173 .....	19.252

**Subpart G**

Requirements of new section:	Are derived from current section:
19.181 .....	New
19.182 .....	19.273
19.183 .....	19.273
19.184 .....	19.273
19.185 .....	19.273
19.186 .....	19.276
19.187 .....	19.274
19.188 .....	19.277
19.189 .....	19.278
19.190 .....	19.279
19.191 .....	19.280
19.192 .....	19.281
19.193 .....	19.282

**Subpart H**

Requirements of new section:	Are derived from current section:
19.201 .....	19.49
19.202 .....	19.50
19.203 .....	19.51
19.204 .....	19.52

**Subpart I**

Requirements of new section:	Are derived from current section:
19.221 .....	New
19.222 .....	19.21 through 19.23
19.223 .....	19.24
19.225 .....	19.25, 19.515, 19.526
19.226 .....	19.517
19.227 .....	19.515
19.229 .....	New
19.230 .....	19.515(b), 19.522(b)
19.231 .....	19.516
19.233 .....	19.522(c), 19.523(b)
19.234 .....	19.522(a), 19.523(a)
19.235 .....	19.522, 19.523
19.236 .....	19.523
19.237 .....	19.523
19.238 .....	19.525
19.239 .....	19.519
19.240 .....	19.524
19.242 .....	19.520
19.243 .....	19.521
19.245 .....	New



Requirements of new section:	Are derived from current section:	Requirements of new section:	Are derived from current section:	Requirements of new section:	Are derived from current section:
19.246 .....	19.34	<b>Subpart N</b>		19.437 .....	19.704
19.247 .....	19.35	19.341 .....	19.371	19.441 .....	19.96
19.248 .....	19.36	19.342 .....	19.372	<b>Subpart Q</b>	
19.249 .....	19.37	19.343 .....	19.373	19.451 .....	New
19.250 .....	19.38	19.344 .....	19.374	19.452 .....	19.681, 19.682
19.253 .....	19.31	19.346 .....	19.376	19.453 .....	New
19.254 .....	19.32	19.348 .....	19.378	19.454 .....	19.683 through 19.686
19.256 .....	19.26	19.351 .....	19.381	19.455 .....	19.687
19.257 .....	19.518	19.352 .....	19.382	19.457 .....	19.688
19.258 .....	19.486	19.353 .....	19.383	19.459 .....	19.691
<b>Subpart J</b>		19.354 .....	19.384, 19.400	<b>Subpart R</b>	
19.261 .....	New	19.355 .....	19.385	19.461 .....	19.561
19.262 .....	19.44	19.356 .....	19.386	19.462 .....	19.562
19.263 .....	19.41	19.357 .....	19.387	19.463 .....	19.563
19.264 .....	19.42	19.358 .....	19.388	19.464 .....	19.564
19.265 .....	19.43	19.359 .....	19.389	19.465 .....	19.565
19.266 .....	19.45	19.360 .....	19.390	<b>Subpart S</b>	
19.267 .....	19.46	19.361 .....	19.391	19.471 .....	New and 19.581
19.268 .....	19.76	19.362 .....	19.392	19.472 .....	New
19.269 .....	19.487	19.363 .....	19.393	19.473 .....	19.581
<b>Subpart K</b>		19.364 .....	19.394	19.474 .....	19.582
19.281 .....	New	19.365 .....	19.397	19.475 .....	19.583
19.282 .....	19.84	19.366 .....	19.398	19.476 .....	19.584
19.283 .....	19.92	19.371 .....	19.401	19.477 .....	19.585
19.284 .....	19.91, 19.92(a), 19.93	19.372 .....	19.402	19.478 .....	19.588
19.285 .....	19.92(a)	<b>Subpart O</b>		19.479 .....	19.589
19.286 .....	19.91(a)	19.381 .....	19.451	19.482 .....	19.592
19.287 .....	19.91(b)	19.382 .....	19.452	19.483 .....	19.595
19.288 .....	19.503	19.383 .....	19.454	19.484 .....	19.596(a) and (c)
19.289 .....	19.319	19.384 .....	19.451, 19.456	19.485 .....	19.593
<b>Subpart L</b>		19.385 .....	19.455	19.486 .....	19.599
19.291 .....	New	19.386 .....	19.457	19.487 .....	19.597
19.292 .....	19.311	19.387 .....	19.453	19.488 .....	19.596(b) and (c)
19.293 .....	19.312	19.388 .....	19.461	19.489 .....	19.607
19.294 .....	19.314	19.389 .....	19.462	19.490 .....	19.594
19.295 .....	19.315	19.390 .....	19.463	19.491 .....	19.601
19.296 .....	19.312	19.391 .....	19.459	19.492 .....	19.602
19.297 .....	19.313	19.392 .....	19.460	19.493 .....	19.604
19.301 .....	19.316	19.393 .....	19.458	19.494 .....	19.605
19.302 .....	19.317	19.394 .....	19.464	19.495 .....	19.606
19.303 .....	19.318	19.395 .....	19.471	19.496 .....	19.608
19.304 .....	19.319	19.396 .....	19.451	19.497 .....	19.610
19.305 .....	19.320	<b>Subpart P</b>		19.498 .....	19.611
19.306 .....	19.321	19.401 .....	New	19.499 .....	19.612
19.307 .....	19.322	19.402 .....	19.505	<b>Subpart T</b>	
19.308 .....	19.326	19.403 .....	19.506	19.511 .....	19.632
19.309 .....	19.327	19.404 .....	19.507	19.512 .....	19.637
19.310 .....	19.328	19.405 .....	19.508	19.513 .....	19.633
19.312 .....	19.329	19.406 .....	19.509	19.516 .....	19.641
19.314 .....	19.331	19.407 .....	19.510	19.517 .....	19.642–19.650
19.315 .....	19.332	19.409 .....	19.481	19.518 .....	19.645
19.316 .....	19.333	19.410 .....	19.482	19.519 .....	19.395
<b>Subpart M</b>		19.411 .....	19.483	19.520 .....	19.396
19.321 .....	19.341	19.414 .....	19.484	19.523 .....	19.661, 19.662
19.322 .....	19.342	19.415 .....	19.485	19.525 .....	19.663
19.324 .....	19.344	19.418 .....	19.531	<b>Subpart U—Reserved</b>	
19.325 .....	19.345	19.419 .....	19.532	<b>Subpart V</b>	
19.326 .....	19.346	19.420 .....	19.533	19.571 .....	19.721
19.327 .....	19.347	19.421 .....	19.534	19.572 .....	19.721, 19.731
19.328 .....	19.348	19.422 .....	19.536	19.573 .....	19.723(a)
19.329 .....	19.349	19.425 .....	19.537	19.574 .....	19.723(a) and (b)
19.331 .....	19.343	19.426 .....	19.538	19.575 .....	19.723(c)
19.333 .....	19.353	19.427 .....	19.540	19.576 .....	19.723(b)
		19.428 .....	19.541	19.577 .....	19.721(c), 19.723(c)
		19.431 .....	19.502		
		19.434 .....	19.701		
		19.435 .....	19.702		
		19.436 .....	19.703		

Requirements of new section:	Are derived from current section:	Requirements of new section:	Are derived from current section:
19.578 .....	19.721(d)	19.677 .....	19.916
19.580 .....	19.731	19.678 .....	19.911
19.581 .....	19.731(b), 19.732	19.679 .....	19.910
19.582 .....	19.722	19.680 .....	19.910
19.584 .....	19.736	19.683 .....	19.919
19.585 .....	19.736	19.684 .....	19.920
19.586 .....	19.736	19.685 .....	19.921
19.590 .....	19.740	19.686 .....	19.922
19.591 .....	19.741	19.687 .....	19.923
19.592 .....	19.742	19.688 .....	19.924
19.593 .....	19.743	19.689 .....	19.925
19.596 .....	19.746	19.690 .....	19.926
19.597 .....	19.747	19.691 .....	New
19.598 .....	19.748	19.692 .....	19.930
19.599 .....	19.749	19.693 .....	19.930
19.600 .....	19.750	19.695 .....	19.945
19.601 .....	19.751	19.697 .....	19.950
19.602 .....	19.748(b)	19.699 .....	19.955, 19.958, 19.959
19.603 .....	19.747	19.700 .....	19.956, 19.957
19.604 .....	19.747	19.703 .....	19.965
19.606 .....	19.752	19.704 .....	19.966, 19.967
19.607 .....	19.753	19.706 .....	19.970
19.611 .....	19.761	19.709 .....	19.980
19.612 .....	19.762	19.710 .....	19.981
19.613 .....	19.763	19.714 .....	19.982
19.614 .....	19.764	19.715 .....	19.982
19.615 .....	19.765	19.716 .....	19.987
19.616 .....	19.766	19.717 .....	19.982
19.617 .....	19.767	19.718 .....	19.982, 19.984, 19.985, 19.986
19.618 .....	19.768	19.719 .....	19.983
19.619 .....	19.769	19.720 .....	19.988
19.620 .....	19.770	19.722 .....	19.990
19.621 .....	19.770	19.723 .....	19.990
19.622 .....	19.773	19.724 .....	19.990
19.623 .....	19.774	19.726 .....	19.1002
19.624 .....	19.778	19.727 .....	19.995
19.625 .....	19.779	19.728 .....	19.996
19.626 .....	19.780	19.729 .....	19.997
19.627 .....	New	19.733 .....	19.998
19.631 .....	19.791	19.734 .....	19.999
19.632 .....	19.792	19.735 .....	19.1000
19.634 .....	New	19.736 .....	19.1001
		19.739 .....	19.998
		19.742 .....	New
		19.746 .....	19.1005
		19.747 .....	19.1006
		19.749 .....	19.1007
		19.752 .....	19.1008
Subpart W		Subpart Y	
19.641 .....	19.821	19.761 .....	19.1010
19.643 .....	19.822		
19.644 .....	19.823		
19.645 .....	19.824		
19.646 .....	19.825		
19.647 .....	19.826		
19.648 .....	19.827		
19.649 .....	19.828		
19.650 .....	19.829		
19.651 .....	19.830		

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, provides that whenever a Federal agency proposes regulations that may have a significant economic impact on a substantial number of small entities, the agency must prepare a regulatory flexibility analysis.

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable when a final rule does not have a significant economic impact on a substantial number of small entities. This rule restates existing regulations in plain language, makes certain variations currently granted to individual plants available to all plants, and adopts certain suggestions made by industry associations to reduce the burdens of regulatory compliance. This rule reduces the burden on members of the distilled spirits industry, including small businesses. Accordingly, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

**Executive Order 12866**

We have determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

**Executive Order 13132**

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires Federal agencies to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” We certify that this final rule does not have federalism implications. This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government.

**Drafting Information**

This notice was prepared by Christopher M. Thiemann of the Regulations and Rulings Division, along with several other employees of the Alcohol and Tobacco Tax and Trade Bureau.

**Regulatory Analyses and Notices**

**Paperwork Reduction Act**

The collections of information contained in this final rule have been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control numbers: 1513–0013, 1513–0014, 1513–0020, 1513–0030, 1513–0038, 1513–0039, 1513–0040, 1513–0041, 1513–0044, 1513–0045, 1513–0046, 1513–0047, 1513–0048, 1513–0049, 1513–0051, 1513–0052, 1513–0056, 1513–0080, 1513–0081, 1513–0083, 1513–0088, and 1513–0113.

**Subpart X**

19.661 .....	New & 19.901
19.662 .....	19.907
19.663 .....	19.901, 19.902
19.665 .....	19.903
19.666 .....	19.903
19.667 .....	19.904
19.669 .....	19.905
19.670 .....	19.906
19.672 .....	New
19.673 .....	19.910, 19.912, 19.913, 19.918
19.674 .....	19.913
19.675 .....	19.910, 19.914, 19.918
19.676 .....	19.910, 19.915 through 19.918

**List of Subjects***27 CFR Part 1*

Administrative practice and procedure, Alcohol and alcoholic beverages, Imports, Liquors, Packaging and containers, Warehouses, Wine.

*27 CFR Part 17*

Administrative practice and procedure, Claims, Cosmetics, Customs duties and inspection, Drugs, Excise taxes, Exports, Imports, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Virgin Islands.

*27 CFR Part 19*

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Caribbean Basin initiative, Chemicals, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

*27 CFR Part 24*

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

*27 CFR Part 26*

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

*27 CFR Part 28*

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

*27 CFR Part 30*

Liquors, Scientific equipment.

*27 CFR Part 31*

Alcohol and alcoholic beverages, Claims, Excise taxes, Exports, Packaging and containers, Reporting and recordkeeping requirements.

**Authority and Issuance**

For the reasons explained in the preamble, TTB amends chapter I of title 27 of the Code of Federal Regulations as follows:

**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**

■ 1. The authority citation for 27 CFR part 1 continues to read as follows:

**Authority:** 27 U.S.C. 203, 204, 206, 211 unless otherwise noted.

**§ 1.82 [Amended]**

■ 2. In § 1.82, paragraph (a) is amended by removing the reference to “§ 19.157” and adding, in its place, a reference to “§ 19.91”.

**PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS**

■ 3. The authority citation for 27 CFR part 17 continues to read as follows:

**Authority:** 26 U.S.C. 5010, 5111–5114, 5123, 5206, 5273, 6065, 6091, 6109, 7213, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 17.162 [Amended]**

■ 4. In § 17.162, paragraphs (d) and (f) are amended by removing the references to “§ 19.780” and adding, in their place, references to “§ 19.626”.

**§ 17.163 [Amended]**

■ 5. In § 17.163, paragraph (a) is amended by removing the reference to “§ 19.780” and adding, in its place, a reference to “§ 19.626”.

■ 6. Part 19 of title 27 Code of Federal Regulations is revised to read as follows:

**PART 19—DISTILLED SPIRITS PLANTS**

Sec.  
19.0 Scope.

**Subpart A—General Provisions**

- 19.1 Definitions.
- 19.2 Territorial extent of these regulations.
- 19.3 Related regulations.
- 19.4 Recovery and reuse of denatured spirits in manufacturing processes.
- 19.5 Manufacturing products unfit for beverage use.

**Subpart B—Administrative and Miscellaneous Provisions**

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- 19.12 Furnishing facilities and assistance.
- 19.13 Assignment of officers and supervision of operations.
- 19.14 Delegation of the Administrator's authorities to the appropriate TTB officer.
- 19.15 Forms prescribed.
- 19.16 Modified forms.
- 19.17 Detention of containers.
- 19.18 Samples for the United States.
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- 19.20 Installation of meters, tanks, and other apparatus.

**Alternate Methods or Procedures and Experimental Operations**

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- 19.27 Application for and use of alternative method or procedure.
- 19.28 Emergency variations from requirements.
- 19.29 Exemptions for national defense and disasters.
- 19.31 Pilot operations.
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- 19.33 Application to establish experimental plants.
- 19.34 Experimental or research operations by scientific institutions and colleges of learning.
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- 19.116 Change in proprietorship.
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- 19.119 Change in premises.
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**Authority:** 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5114, 5121, 5122–5124, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

#### § 19.0 Scope.

This part concerns the operation of distilled spirits plants in the United States. Topics covered in this part include: Permits and registration procedures; bond requirements; payment of taxes; filing of claims; production, storage, and processing operations; and maintenance of records.

#### Subpart A—General Provisions

##### § 19.1 Definitions.

As used in this part, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning, or a different definition is prescribed for a particular subpart, section, or portion of this part:

**Accurate mass flow meter.** A mass flow meter for making volume determinations of bulk distilled spirits. A mass flow meter used for tax determination 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 0.1 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 nonbeverage 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 registration, 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, consignee, 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, 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.
- 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 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://](http://www.ttb.gov)

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)

#### § 19.16 Modified forms.

If a proprietor wishes to modify a form prescribed by these regulations, the proprietor must submit an application for approval of an alternate method or procedure (see §§ 19.26 and 19.27) to the appropriate TTB officer. The proprietor may not use a modified form until TTB approves the application. The application to modify a form must be accompanied by:

(a) A copy of each proposed form with typical entries; and

(b) A statement explaining the need to use a modified form.

(26 U.S.C. 5207)

#### § 19.17 Detention of containers.

(a) *General.* A TTB officer may detain any container containing, or supposed 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 payment 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 of the laws or regulations, or that the proprietor has failed to follow any of the conditions specified in the approval. When use of the emergency method or procedure terminates, the proprietor must revert to full compliance with all applicable regulations.

(26 U.S.C. 5178, 5556)

#### **§ 19.29 Exemptions for national defense and disasters.**

Whenever TTB finds it is necessary to meet the requirements of national defense or necessary or desirable by reason of disaster, TTB may temporarily exempt the proprietor from any provisions of the internal revenue laws and the provisions of this part relating

to distilled spirits, except those requiring the payment of tax.

(26 U.S.C. 5561, 5562)

#### **§ 19.31 Pilot operations.**

Except for the filing of any bond or the payment of any tax provided for in 26 U.S.C. chapter 51, TTB may waive any regulatory provision in this part for temporary pilot or experimental operations for the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over plants. For this purpose, the appropriate TTB officer may, with the approval of the proprietor thereof, designate any plant for such operations. Any waiver granted under this section must be in writing and signed by the appropriate TTB officer. The waiver will identify the provisions of law and/or regulations waived and the period of time during which the waiver will be effective. The appropriate TTB officer may terminate the waiver if he or she determines that the waiver jeopardizes the revenue.

(26 U.S.C. 5554)

#### **§ 19.32 Experimental distilled spirits plants.**

(a) *General.* The appropriate TTB officer may authorize the establishment and operation of experimental plants for specific and limited periods of time solely for experimentation in, or development of:

- (1) Sources of materials from which spirits may be produced;
- (2) Processes by which spirits may be produced or refined; or
- (3) Industrial uses of spirits.

(b) *Waiver.* The appropriate TTB officer may waive any provision of 26 U.S.C. chapter 51 (other than 26 U.S.C. 5312) and of this part (other than § 19.33) to the extent necessary to effectuate the purposes of 26 U.S.C. 5312(b) as outlined in paragraph (a) of this section. However, TTB will not waive the payment of any tax on spirits removed from an experimental plant.

(26 U.S.C. 5312)

#### **§ 19.33 Application to establish experimental plants.**

(a) *Application requirements.* Any person who wishes to establish an experimental plant for the purposes specified in § 19.32 must submit a written application to the appropriate TTB officer and obtain approval of the proposed experimental plant. The application must:

- (1) State the nature, extent, and purpose of the operations to be conducted;

(2) Describe the operations and equipment;

(3) Describe the location of the plant (including the proximity to other premises or operations subject to the provisions of 26 U.S.C. chapter 51); and

(4) Describe the security measures to be provided.

(b) *Bond.* The applicant must file a bond with the application in such form and penal sum as required by the appropriate TTB officer.

(c) *Approval of application.* Before approving the application, the appropriate TTB officer may require that the applicant submit additional information if necessary. TTB will not approve the application and permit operations until the plant conforms to the specifications stated in the application and the applicant complies with provisions of 26 U.S.C. chapter 51 and with any provisions in this part that are not specifically waived.

(26 U.S.C. 5312)

#### **§ 19.34 Experimental or research operations by scientific institutions and colleges of learning.**

(a) *General.* The appropriate TTB officer may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than in organoleptic tests) or sale, in quantities as may be reasonably necessary for those purposes.

(b) *Waiver.* For purposes of this section, the appropriate TTB officer may waive any provision of 26 U.S.C. chapter 51 (other than 26 U.S.C. 5312) or this part (other than this section and § 19.35) to the extent necessary to effect the purposes of 26 U.S.C. 5312(a). However, TTB will not waive the payment of any tax on distilled spirits removed from any university, college, or institution.

(26 U.S.C. 5312)

#### **§ 19.35 Application by scientific institutions and colleges of learning for experimental or research operations.**

(a) *Application requirements.* A university, college, or scientific institution that wants to conduct any of the experimental or research operations mentioned in § 19.34, must submit a written application to the appropriate TTB officer and obtain approval for the proposed operations. The application may be submitted on letterhead. The application must:

- (1) State the nature, extent, and purpose of the operations to be conducted;

(2) Describe the operations and equipment;

(3) Describe the location where the operations will be conducted (including identification of the building or buildings, or the portions thereof to be used); and

(4) Describe the security measures to be provided.

(b) *Bond.* The applicant must file a bond with the application in such form and amount as required by the appropriate TTB officer.

(c) *Approval of application.* Before approving the application, the appropriate TTB officer may require that the applicant submit additional information. The applicant may not commence operations until authorized by the appropriate TTB officer.

(d) *Records and reports.* Any university, college, or institution authorized to conduct experimental or research operations must maintain records of the quantities of spirits produced, received, and used each day and must make these records available for inspection by TTB officers. Universities, colleges, or institutions authorized to conduct experimental or research operations are not required to submit reports of operations to TTB unless specifically required by the appropriate TTB officer.

(e) *Discontinuance of operations.* When operations authorized under this section are discontinued, the university, college, or institution must destroy all remaining spirits and notify the appropriate TTB officer that operations are discontinued.

(26 U.S.C. 5312)

#### **§ 19.36 Spirits produced in industrial processes.**

(a) *General.* Except as otherwise provided in paragraph (b) of this section, any person who produces distilled spirits in an industrial process, including spirits produced as a byproduct in connection with chemical or other processes, is considered to be a distiller and therefore is required to qualify such operations as a distilled spirits plant and is subject to the registration requirements under the provisions of 26 U.S.C. chapter 51 and this part.

(b) *Waiver.* TTB may waive application of any provision of 26 U.S.C. chapter 51, or of this part, involving the production of nonpotable chemical mixtures containing spirits, including any provision relating to qualification (except the dealer registration requirement) if the mixture is produced:

(1) For transfer to the bonded premises of a distilled spirits plant for completion of distilling; or

(2) As a byproduct which would require expensive and complex equipment for the recovery of spirits, and the mixture:

(i) Would be destroyed on the premises where produced; or

(ii) Would contain a minimum quantity of spirits, taking into account the procedure employed, would not be subjected to further operations solely for the purification or recovery of spirits, and would be found by TTB to be as nonpotable and as difficult to recover as completely denatured alcohol.

(26 U.S.C. 5201)

#### **§ 19.37 Application for industrial processes waiver.**

(a) *Application for waiver.* If the producer of a nonpotable chemical mixture containing spirits, as described in § 19.36, wishes to obtain a waiver from the provisions of 26 U.S.C. chapter 51, or of this part, the producer must submit a written waiver application to the appropriate TTB officer. The application must include the following information, as applicable:

(1) The name and address of the producer;

(2) Chemical composition and source of the nonpotable mixture;

(3) Approximate percentages of chemicals and spirits in the mixture;

(4) Method of operation proposed;

(5) Bonded premises where the mixture will be distilled; and

(6) Any other pertinent information required by the appropriate TTB officer.

(b) *Approval of waiver.* The appropriate TTB officer may approve the waiver if it will not jeopardize the revenue and will not hinder supervision of the operations. Approval of the application may be subject to such terms and conditions, and to the furnishing of any bond, that the appropriate TTB officer determines is necessary.

(26 U.S.C. 5201)

#### **§ 19.38 Approval of required documents.**

Except as otherwise provided in this part, the appropriate TTB officer is authorized to approve all documents, bonds, and consents of surety required by this part.

(26 U.S.C. 5171, 5172, 5173, and 5551)

#### **“Penalties of Perjury” Declaration**

#### **§ 19.45 Execution under penalties of perjury.**

(a) *Declaration.* When TTB requires under this part that a document be executed under penalties of perjury, the

document must contain the following declaration:

I declare under the penalties of perjury that this [insert type of document, such as report, or claim], including supporting documents, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(b) *Signing.* The declaration in paragraph (a) of this section must bear the signature and title of the proprietor or a duly authorized representative.

(26 U.S.C. 6065)

### **Subpart C—Restrictions on Production, Location, and Use of Plants**

#### **§ 19.51 Home production of distilled spirits prohibited.**

A person may not produce distilled spirits at home for personal use. Except as otherwise provided by law, distilled spirits may only be produced by a distilled spirits plant registered with TTB under the provisions of 26 U.S.C. 5171. All distilled spirits produced in the United States are subject to the tax imposed by 26 U.S.C. 5001.

(26 U.S.C. 5001, 5601, and 5602)

#### **Rules for Location and Use of a DSP**

#### **§ 19.52 Restrictions on location of plants.**

A person who intends to establish a distilled spirits plant may not locate it in any of the following places:

- (a) In any residence, shed, yard, or enclosure connected to a residence;
- (b) On any vessel or boat;
- (c) Where beer or wine is produced;
- (d) Where liquors are sold at retail; or
- (e) Where any other business is conducted except as provided in § 19.54.

(26 U.S.C. 5178)

#### **§ 19.53 Continuity of plant premises.**

As a general rule, the premises of a distilled spirits plant must be continuous except for separations by public waterways, roads, or carrier rights-of-way. However, the appropriate TTB officer may approve the registration of the plant where there are separations of the plant premises and all parts of the plant are in the same general location if:

- (a) There is no jeopardy to revenue caused by the separation of premises; and
- (b) The separation of premises does not create administrative problems for TTB.

(26 U.S.C. 5178)

#### **§ 19.54 Use of distilled spirits plant premises.**

(a) *General.* A person may not conduct any business or operation on

the premises of a distilled spirits plant unless the business or operation is authorized by the notice of registration on file with TTB or authorized under § 19.55.

(b) *Bonded premises.* The proprietor must use the bonded premises of a distilled spirits plant exclusively for distilled spirits operations. The proprietor must store packaged spirits, cases of spirits, or portable containers of spirits in a room or building on bonded premises. TTB may approve another method of storage as an alternate method or procedure. However, the proprietor must apply for, and receive approval for another method of storage from the appropriate TTB officer in accordance with § 19.27 before using that method.

(c) *General premises.* General premises are any portion of the distilled spirits plant described in the notice of registration other than bonded premises. A person may not use the general premises of a distilled spirits plant for any operation required under the provisions of this part to be conducted on bonded premises.

(26 U.S.C. 5178)

#### § 19.55 Other businesses.

(a) The appropriate TTB officer may authorize the conduct of a business other than that of a distiller, warehouseman, or processor on the premises of a distilled spirits plant if:

(1) The business is not prohibited by 26 U.S.C. 5601(a)(6);

(2) The business will not jeopardize the revenue;

(3) The business will not hinder TTB's effective administration of this part; and

(4) The business will not be contrary to law.

(b) A person who wishes to conduct another business at a distilled spirits plant must apply for such authorization in accordance with §§ 19.73(b) or 19.120(b) and receive approval from the appropriate TTB officer before operating the other business. The approval will specify whether the other business may be conducted on the bonded premises or on the general premises.

(26 U.S.C. 5178)

#### § 19.56 Bonded warehouses not on premises qualified for production of spirits.

(a) *Criteria for establishment.* As a general rule, if a person intends to establish a bonded warehouse, other than one established on the bonded premises of a distilled spirits plant qualified for the production of spirits or contiguous to such premises, the proposed warehouse must have a minimum capacity of 250,000 wine

gallons of bulk spirits and the need for such a warehouse must be clearly shown. TTB may consider an application to establish a bonded warehouse with less capacity provided a need is clearly shown.

(b) *Application.* The applicant must submit a separate written request along with the application for registration explaining the need for the bonded warehouse. TTB may approve the application for registration if:

(1) The proposed location for the warehouse will not jeopardize the revenue; and

(2) The applicant provides evidence showing sufficient need for establishing such a warehouse.

(c) *Special conditions.* Based on the application and request, TTB may limit the type of operations that may be conducted at the bonded warehouse. The proprietor of a warehouse approved for a limited type of operation may not expand or change the operation to include any other type of operation without application to and approval of the appropriate TTB officer.

(26 U.S.C. 5171 and 5178)

#### Conveyance of Spirits or Wines on Plant Premises

##### § 19.58 Taxpaid spirits or wines on bonded premises.

The proprietor may move tax paid or tax determined spirits or wines across bonded premises. However, tax paid or tax determined spirits or wines may not be stored or allowed to remain on the bonded premises. The proprietor must keep tax paid or tax determined spirits or wines separate from spirits or wines on which tax has not been paid or determined. Spirits returned to bonded premises under the provisions of 26 U.S.C. 5215 may remain on bonded premises.

(26 U.S.C. 5201 and 5612)

##### § 19.59 Conveyance of untaxpaid spirits or wines within a distilled spirits plant.

(a) The proprietor may move untaxpaid spirits or wines:

(1) Between different portions of the bonded premises at the same distilled spirits plant or across any other premises of that plant;

(2) Over any public thoroughfare by uninterrupted transportation; or

(3) Over a private roadway by uninterrupted transportation. The owner or lessee of the private roadway must agree in writing to allow TTB officers access to the roadway to perform their duties.

(b) The conveyance of untaxpaid spirits or wines under paragraph (a) of this section is subject to the following conditions. The proprietor:

(1) May not store or allow the untaxpaid spirits or wines to remain on any premises other than the bonded premises;

(2) Must keep the untaxpaid spirits or wines separate from spirits on which the tax has been paid or determined;

(3) Must submit to the appropriate TTB officer a description of the means, route of the conveyance, and the areas of the distilled spirits plant, public thoroughfare or roadways across which spirits or wines will be conveyed, and a copy of any agreement with the owner or lessee of a private roadway. The appropriate TTB officer must approve the proposed means and route of conveyance and any agreement; and

(4) Must provide a consent of surety on the operations or unit bond (TTB Form 5000.18) extending the terms of the bond to cover the conveyance of the spirits or wines.

(26 U.S.C. 5201 and 5601)

#### § 19.60 Spirits in customs custody.

A proprietor may move distilled spirits that are in customs custody across distilled spirits plant premises if the proprietor:

(a) Submits to the appropriate TTB officer a description of the means and route of the conveyance and the areas of the distilled spirits plant across which spirits will be conveyed and receives approval from the appropriate TTB officer for the method of movement;

(b) Does not store or allow the spirits to remain on the premises of the distilled spirits plant;

(c) Moves the spirits expeditiously, and keeps the spirits separate and apart from other spirits on the premises; and

(d) Provides a consent of surety on the operations or unit bond (TTB Form 5000.18) extending the terms of the bond to cover the conveyance of the spirits.

(26 U.S.C. 5201)

#### Subpart D—Registration of a Distilled Spirits Plant and Obtaining a Permit

##### § 19.71 Registration and permits in general.

Except as otherwise provided in this part, a person may only conduct operations as a distiller, warehouseman, or processor of distilled spirits on the bonded premises of a distilled spirits plant. In order to establish a distilled spirits plant, a person must register the plant with TTB and obtain an operating permit and/or a basic permit. This subpart covers the requirements for registering a plant and obtaining an operating permit under the IRC. Part 1 of this chapter covers the requirements

for obtaining a basic permit under the Federal Alcohol Administration Act. (26 U.S.C. 5171)

### Requirements for Registering a Plant

#### § 19.72 General requirements for registration.

(a) *Establishment.* A person who wishes to establish a distilled spirits plant must intend to conduct operations as a distiller, as a warehouseman, or both. A person cannot establish a distilled spirits plant solely for the processing of spirits.

(b) *Registration.* Before beginning operations as a distilled spirits plant, a person must submit an application for registration and receive approval from TTB. The following rules apply to an application for registration:

(1) The applicant must apply for registration on form TTB F 5110.41, Registration of Distilled Spirits Plant, and submit the application to the appropriate TTB officer;

(2) TTB will consider all written statements, affidavits, and other documents supporting the application as part of the application;

(3) If the appropriate TTB officer determines that the original application for registration cannot be approved because it contains incomplete or incorrect information, TTB may require that the applicant file an additional TTB F 5110.41, or submit other documentation to complete or correct the original application; and

(4) The applicant must file any additional forms or submit any other documentation within 60 days of the appropriate TTB officer's request.

(26 U.S.C. 5171, 5172)

#### § 19.73 Information required in application for registration.

(a) *General.* The application for registration on form TTB F 5110.41, Registration of Distilled Spirits Plant, must include the following information:

(1) The serial number;

(2) The name, principal business address, and location of the distilled spirits plant if different from the applicant's business address;

(3) The operations that will be conducted;

(4) The purpose for filing the application;

(5) A statement describing the type of business organization and the persons involved in the business in accordance with § 19.93. However, if any of this information is already on file with the appropriate TTB officer, the applicant may advise TTB that the information on file is part of the application for registration;

(6) A list of any operating permits, basic permits, operations bonds, withdrawal bonds, and/or unit bonds, including the amount of any bond(s) and the name of the surety on the bond;

(7) In the case of a corporation, a list of the offices and officers authorized by the articles of incorporation or the board of directors to sign or act on behalf of the corporation;

(8) A description of the plant in accordance with § 19.74;

(9) A list of major equipment in accordance with § 19.75;

(10) A statement of the maximum number of proof gallons that will be produced in the distillery during a period of 15 days, stored on the bonded premises, and in transit to the bonded premises. This statement is not required if the operations or unit bond is in the maximum amount;

(11) A statement that accounting records will be maintained in accordance with generally accepted accounting principles;

(12) A statement of plant security measures in accordance with § 19.76;

(13) The following information if the applicant intends to operate as a distiller:

(i) Total proof gallons of spirits that can be produced daily;

(ii) A statement of production procedures in accordance with § 19.77; and

(iii) A statement as to whether spirits will be redistilled;

(14) The following information if the applicant intends to operate as a warehouseman:

(i) A description of the storage system; and

(ii) Total amount of bulk wine gallons that can be stored; and

(15) The following information if the applicant intends to operate as a processor:

(i) A statement whether spirits will or will not be bottled, denatured, redistilled, and whether articles will be manufactured; and

(ii) A description of the storage system for spirits bottled and cased or otherwise packaged and placed in approved containers for removal from bonded premises.

(b) *Other business.* If the applicant intends to conduct any other business on the distilled spirits plant premises as authorized under § 19.55, the following information must be submitted with the application:

(1) A description of the business;

(2) A list of buildings and equipment that will be used; and

(3) A statement of the relationship of the business to the distilled spirits operations at the plant.

(c) *Additional information.* The applicant must furnish any additional information needed by TTB to determine if the application for registration should be approved.

(26 U.S.C. 5171, 5172, 6001)

#### § 19.74 Description of the plant.

As required by § 19.73(a)(8), the application for registration must include a description of the distilled spirits plant. This information must:

(a) Describe each tract of land covered by distilled spirits plant;

(b) Clearly distinguish between the bonded premises and any general premises;

(c) Provide directions and distances in enough detail to enable the appropriate TTB officer to readily determine the boundaries of the plant;

(d) Describe each building and outside tank that will be used for production, storage, and processing of spirits and for denaturing spirits, articles, or wines. The description must include the location, size, construction, and arrangement with reference to each by a designated number or letter; and

(e) Specify when only a room or floor of a building will be used for plant operations and provide the location and description of the building, floor, and room.

(26 U.S.C. 5172)

#### § 19.75 Major equipment.

As required by § 19.73(a)(9), the application for registration must include a list of the major plant equipment. If the equipment is set up and used for the production, storage, or processing of distilled spirits, wine, denatured spirits, or articles, the list must provide the following information:

(a) The serial number and capacity of each tank in the plant. The list does not need to include any bulk containers having a capacity of less than 101 wine gallons on the plant premises if those containers do not meet the criteria of a tank under § 19.182 (perks, small totes, etc.);

(b) The serial number, kind, capacity, and intended use of each still in the plant. The capacity is the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or for column stills a statement of the diameter of the base and number of plates; and

(c) The serial number of each condenser.

(26 U.S.C. 5172, 5179)

#### § 19.76 Statement of plant security.

As required by § 19.73(a)(12), the application for registration must include

a statement of plant security. This statement must include the following information:

(a) A general description of plant security, including methods used to secure buildings or plant operations located within a portion of a building and outdoor tanks;

(b) A statement regarding the use of guard personnel;

(c) A statement regarding the use of any electronic or mechanical alarm system;

(d) A statement certifying that locks used will meet the requirements of § 19.192(f); and

(e) A list of persons, by their position and title, who have the responsibility for the custody and access to keys for the locks.

(26 U.S.C. 5171, 5172)

#### **§ 19.77 Statement of production procedure.**

(a) As required by § 19.73(a)(13)(ii), the application for registration must include a statement of the step-by-step production procedure used to produce spirits from an original source. The statement must begin with the treating, mashing, or fermenting of the raw materials or substances and continue through each step of the distilling, purifying, and refining procedure to the production gauge. The statement must include the kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits that will be produced.

(b) If the applicant intends to redistill spirits in the production account, the applicant must submit and receive approval for such redistillation on form TTB F 5110.38, Formula for Distilled Spirits under the Federal Alcohol Administration Act.

(26 U.S.C. 5172, 5201, 5222, 5223, 5555)

#### **§ 19.78 Power of attorney.**

An applicant or proprietor of a distilled spirits plant must execute and submit to the appropriate TTB officer form TTB F 5000.8, Power of Attorney, for each person authorized to sign or to act on behalf of the applicant or proprietor unless the authority has been granted in the application for registration.

(26 U.S.C. 5172)

#### **§ 19.79 Registry of stills.**

Section 29.55 of this chapter requires that every person having possession, custody, or control of a still or distilling apparatus must register the still or distilling apparatus. When a person lists a still or distilling apparatus with the

application for registration as required by § 19.75(b) and receives approval of the registration, that person has fulfilled the requirement to register the still or distilling apparatus. See § 29.55 of this chapter for additional provisions regarding stills and distilling apparatus. (26 U.S.C. 5172, 5179)

#### **§ 19.80 Approved notice of registration.**

A person may not operate a distilled spirits plant unless a notice of registration has been approved by TTB authorizing the businesses and operations to be conducted at such plant. When approved by the appropriate TTB officer, the application for registration constitutes the notice of registration of the distilled spirits plant. A distilled spirits plant will not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or operations in which the applicant intends to engage. In any instance where a person is required to have a bond or permit and the bond or permit becomes invalid, then the notice of registration also becomes invalid. Another application for registration must be filed and a new notice of registration approved by TTB before the business or operation at such plant may be resumed. Reregistration of a plant is not required when a new bond or a strengthening bond is filed in accordance with § 19.167 or § 19.168.

(26 U.S.C. 5171, 5172)

#### **§ 19.81 Maintenance of registration file.**

The proprietor must maintain the registration documents on the plant premises in a loose-leaf file that is current, complete, and readily available for inspection by the appropriate TTB officer.

(26 U.S.C. 5172)

#### **Requirements for an Operating Permit Under the IRC**

##### **§ 19.91 Operating permit.**

(a) Except as provided in paragraph (b) of this section, a person must obtain an operating permit under the IRC in order to:

- (1) Distill for industrial use;
- (2) Warehouse spirits for industrial use;
- (3) Denature spirits;
- (4) Warehouse spirits (without bottling) for nonindustrial use;
- (5) Bottle or package spirits for industrial use;
- (6) Manufacture articles; or
- (7) Engage in any other distilling, warehousing, or processing operation

not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204).

(b) *Exception.* The requirement to obtain an operating permit does not apply to an agency of a State, or political subdivision of a State, or an officer or employee of, and acting for, such an agency.

(26 U.S.C. 5171, 5271)

#### **§ 19.92 Information required in application for operating permit.**

(a) In order to obtain an operating permit, a person must complete an application on form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d). TTB will consider all written statements, affidavits and other documents submitted in support of the application as part of the application.

(b) The application on TTB F 5110.25 must include the following information:

- (1) The name and principal address of the business;
- (2) The address of the plant if different from the business address;
- (3) A description of the operation(s) to be conducted;
- (4) A statement of the business organization and the persons involved in the business as required under § 19.93; and
- (5) A list of trade names as required under § 19.94.

(c) A TTB officer may request that any person listed under § 19.93(a)(1)(ii), (a)(3)(iii), (b)(1), or (b)(2) submit to TTB a statement as to whether that person has ever:

- (1) Been convicted of a felony or misdemeanor under Federal or State law, other than a misdemeanor conviction for a traffic violation;
- (2) Been arrested or charged with any violation of State or Federal law, other than an arrest or charge for a misdemeanor traffic violation; or
- (3) Applied for, held, or been connected with a permit issued under Federal law to manufacture, distribute, sell or use spirits or products containing spirits, or held any financial interest in any business covered by any such permit, and if so, give the permit number, classification, period of operation and details regarding any denial, suspension, revocation or other termination.

(d) If any of the information required in paragraphs (b)(4) or (c)(3) of this section is on file with the appropriate TTB officer, the applicant may, by incorporation by reference, state that the information is made a part of the application for an operating permit.

(e) The applicant must provide any additional information that the



appropriate TTB officer may request in order to determine whether the application should be approved.

(26 U.S.C. 5171, 5271)

**§ 19.93 Applicant organization documents.**

(a) *Supporting information.* Sections 19.73(a)(5) and 19.92(a)(4) require that the application for registration and the application for an operating permit include information about the business organization of the applicant. The applicant must provide the following information as applicable:

(1) If the applicant is a corporation—

(i) The corporate charter or other documentation that provides proof of corporate existence or incorporation;

(ii) Names and addresses of directors and officers;

(iii) Certified minutes, or extracts of board of directors meetings, that authorize specific individuals to sign for the corporation; and

(iv) A statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

(2) If the applicant is a partnership, a copy of the articles of partnership or association, or certificate of partnership or association if required to be filed by any State, county, or municipality.

(3) If the applicant is a limited liability company or limited liability partnership—

(i) A copy of the articles of organization;

(ii) A copy of the operating agreement; and

(iii) The names and addresses of all members and managers.

(b) *Statement of interest*—(1) *Sole proprietorships and general partnerships.* In the case of an individual owner or a general partnership, the applicant must provide the name and address of each person having an interest in the business and a statement indicating whether the interest appears in the name of the interested person or in the name of another person.

(2) *Limited liability entities.* In the case of a corporation, limited liability partnership, limited liability company, or other legal entity in which some or all of the owners have limited personal liability for the activities of the entity, the applicant must provide the following information about persons having an interest in the business:

(i) The names and addresses of the 10 persons that have the largest ownership or other interest in each of the classes of ownership of the applicant and the nature and amount of ownership or other interest of each person.

(ii) The name of the person in whose name the interest appears. If the corporation is wholly owned or controlled by another corporation, the appropriate TTB officer may request the same information regarding ownership for the parent corporation.

(26 U.S.C. 5172, 5271)

**§ 19.94 Trade names.**

(a) *Operating permits.* The applicant must include a list of any trade names used in the operation of the plant with form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d). The applicant must show the operations for which the trade name will be used and identify the offices where the trade name is registered. The applicant must also submit copies of any certificate or other document filed or issued for each trade name.

(b) *Basic permits.* If the applicant is required to have a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204) for distilling, warehousing, or processing operations, then the applicant must follow the regulations under that Act for the approval and use of trade names.

(26 U.S.C. 5271)

**§ 19.95 Issuance of operating permits.**

TTB will issue only one operating permit for a distilled spirits plant. The permit will designate the operations that are authorized at the plant. The proprietor must post the permit at the distilled spirits plant and have it available for inspection by appropriate TTB officers.

(26 U.S.C. 5171, 5271)

**§ 19.96 Denial of permit.**

TTB will conduct proceedings for the denial of an application for an operating permit in accordance with the procedures set forth in part 71 of this chapter if the appropriate TTB officer has reason to believe that:

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. chapter 51, or the regulations issued thereunder;

(b) The applicant failed to disclose any material information required, or has made a false statement as to any material fact in connection with the application; or

(c) The premises where the applicant proposes to conduct the operations are not adequate to protect the revenue.

(26 U.S.C. 5271)

**§ 19.97 Correction of permit.**

If requested by the appropriate TTB officer, a proprietor must immediately return for correction any operating permit that contains an error.

(26 U.S.C. 5271)

**§ 19.98 Duration of permit.**

The proprietor may conduct the operations authorized by the operating permit on a continuing basis unless:

(a) The proprietor voluntarily surrenders the permit;

(b) TTB suspends or revokes the permit pursuant to § 19.99; or

(c) The permit is automatically terminated under its own terms or in accordance with § 19.127.

(26 U.S.C. 5271)

**§ 19.99 Suspension or revocation of permit.**

TTB will conduct proceedings to revoke or suspend an operating permit in accordance with the procedures set forth in part 71 of this chapter if the appropriate TTB officer has a reason to believe that the proprietor or any person associated with the operating permit:

(a) Has not complied in good faith with the provisions of 26 U.S.C. chapter 51 or the regulations issued thereunder;

(b) Has violated the conditions of the permit;

(c) Has made a false statement as to any material fact in the application for the permit;

(d) Has failed to disclose any required material information;

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor;

(f) Has been convicted of any offense under title 26 U.S.C. punishable as a felony or of any conspiracy to commit such an offense; or

(g) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years.

(26 U.S.C. 5271)

**Subpart E—Changes to Registrations and Permits**

**§ 19.111 Scope.**

This subpart explains the requirements for amending a distilled spirits plant registration and, if applicable, an operating permit. For information regarding amendments to a basic permit issued under the Federal Alcohol Administration Act, see part 1 of this chapter.

(26 U.S.C. 5171)

**Rules for Amending a Registration****§ 19.112 General rules for amending a registration.**

If there is a change in any of the information in the proprietor's current, approved notice of registration, the proprietor must amend the registration within 30 days of the change unless another time period is specified in this subpart. To amend a registration the proprietor must submit in writing to the appropriate TTB officer any information necessary to make the registration file current and accurate.

(a) *TTB F 5110.41.* Except when a letterhead application or letterhead notice procedure is allowed under this subpart, the proprietor must submit an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, for changes that affect the registration. If the changes affect only parts or pages of the registration the proprietor only needs to submit the necessary pages or information that will make the registration file current.

(b) *Letterhead applications.* For certain changes specified in this subpart the proprietor may submit a letterhead application for a change instead of an amended TTB F 5110.41. The letterhead application must identify the distilled spirits plant to which the change applies and clearly identify the change. Any change is subject to TTB approval. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.41 if administrative difficulties occur as a result of the letterhead application.

(c) *Letterhead notices.* For certain changes specified in this subpart only a letterhead notice is required. The letterhead notice must identify the distilled spirits plant to which the change applies and clearly identify the change. A letterhead notice does not require approval by TTB. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.41 if administrative difficulties occur as a result of the letterhead notice. (26 U.S.C. 5171, 5172)

**§ 19.113 Change in name of proprietor.**

If the name of the proprietor changes, the proprietor may not conduct operations under the new name before TTB approves the amended registration. The proprietor must file either an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead application to reflect the change. However, the proprietor does not have to file a new bond or consent of surety.

(26 U.S.C. 5172, 5271)

**§ 19.114 Changes in stockholders or persons with interest.**

The proprietor must notify TTB of any changes in the list of stockholders or persons with interest that was filed with TTB as required by § 19.93. If the change results in a change of control, the proprietor must file form TTB F 5110.41, Registration of Distilled Spirits Plant, within 30 days of the change. If the change does not cause a change of control, the proprietor:

- (a) May file a letterhead notice to amend the registration;
- (b) May file the amended notice on May 1 of each year rather than within 30 days of the change, or on any other date that the appropriate TTB Officer may approve; and
- (c) Must incorporate all changes submitted by letterhead notice in the next TTB F 5110.41 filed.

(26 U.S.C. 5172, 5271)

**§ 19.115 Change in officers, directors, members, or managers**

(a) *General.* If there is a change in the list of officers, directors, members or managers that the proprietor filed as required by § 19.93 the following rules apply:

(1) The proprietor must file an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead notice to reflect the change;

(2) The proprietor must provide the name and address of each new officer, director, member or manager; and

(3) The proprietor must incorporate all changes submitted by letterhead notice in the next TTB F 5110.41 filed.

(b) *Waiver.* The appropriate TTB officer may waive the requirement to amend the registration if the change only relates to corporate officers listed on the original or current registration who are no longer connected with the operations covered by the registration.

(26 U.S.C. 5171, 5172)

**§ 19.116 Change in proprietorship.**

(a) *General.* If there is a change in proprietorship at a distilled spirits plant, the following requirements apply to the outgoing proprietor and to the incoming (successor) proprietor.

(1) *Outgoing proprietor.* An outgoing proprietor must comply with the requirements of § 19.147. An outgoing proprietor may transfer spirits to its successor in accordance with § 19.141.

(2) *Incoming proprietor.* A successor to the proprietorship of a plant that holds a registration:

- (i) Must file form TTB F 5110.41, Registration of Distilled Spirits Plant, and receive from TTB an approved notice of registration of the plant;

(ii) Must file the required bonds; and  
(iii) May adopt the approved formulas of its predecessor in accordance with §§ 5.28 and 20.63 of this chapter.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, the successor must comply with the provisions of paragraph (a)(2) of this section. The following rules also apply in this case:

(1) The fiduciary may furnish a consent of surety to extend the terms of the predecessor's bond instead of filing a new bond;

(2) The fiduciary may incorporate by reference in the application for registration on TTB F 5110.41 any information contained in the predecessor's application for registration that is still current;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document showing the successor's qualification as fiduciary; and

(4) The effective date of the qualifying documents that the fiduciary files will be the date of the court order, the date specified in the order whereby the fiduciary assumes control, or if there is no court order, the date that the fiduciary assumed control.

(26 U.S.C. 5172)

**§ 19.117 Partnerships.**

(a) If there is a death or insolvency of a partner in the business registered under this part, the surviving partner or partners may continue to operate under the notice of registration if:

(1) The partnership is not terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have exclusive right to the control and possession of the partnership assets for purposes of liquidation and settlement; and

(3) A consent of surety is filed where the surety and the surviving partner or partners agree to remain liable on the operations or unit bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file as an incoming proprietor and receive an approved notice of registration of the plant in accordance with § 19.116(a).

(26 U.S.C. 5172)

**§ 19.118 Change in location.**

(a) If the location of the plant changes, the proprietor must:

(1) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration;

(2) File a new bond or a consent of surety on form TTB F 5000.18; and

(3) Not begin operations at the new location prior to approval of the amended registration.

(b) If there is a temporary change of delivery address within a plant with no change in plant location, the proprietor may file a letterhead notice to temporarily amend the registration.

(26 U.S.C. 5172, 5173, 5271)

#### § 19.119 Change in premises.

If the proprietor intends to extend or curtail any part of the plant premises, except under alternate operations that are covered by §§ 19.142 and 19.143, the proprietor must file form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration. The proprietor must not extend or curtail any premises or equipment before the amended registration is approved.

(26 U.S.C. 5172)

#### § 19.120 Change in operations.

(a) If the proprietor wishes to conduct additional operations involving spirits, other than those approved on the current registration, the proprietor must:

(1) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration; and

(2) Not engage in the additional operations prior to approval of the amended registration.

(b) If the proprietor wishes to engage in another business that is authorized under § 19.55 the proprietor must:

(1) File TTB F 5110.41 to amend the registration;

(2) Include the information required under § 19.73(b); and

(3) Not engage in the other business until approval of the amended registration is received.

(26 U.S.C. 5171, 5172, 5271)

#### § 19.121 Change in production procedure.

If the proprietor plans to produce a new product or make a change to the production procedure that will affect the designation of the product or substantially affect the character of the product, the proprietor must:

(a) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration;

(b) Provide a new statement of production procedure as described in § 19.77; and

(c) Receive approval of the amended registration before implementing the change in the production procedure.

(26 U.S.C. 5172)

#### § 19.122 Change in construction or use of buildings and equipment.

(a) The proprietor must submit a letterhead notice before making any material change in the construction or use of buildings or equipment at the plant other than changes covered by §§ 19.119, 19.142 or 19.143. The proprietor must:

(1) Describe the proposed change in detail;

(2) Keep a copy of the letterhead notice on file with the current notice of registration; and

(3) Incorporate the change in the next amendment to the registration submitted on form TTB F 5110.41, Registration of Distilled Spirits Plant, unless the appropriate TTB officer requires immediate submission of an amended TTB F 5110.41.

(b) The proprietor may make emergency changes in construction or use of buildings and equipment without prior letterhead notice. However, the proprietor must promptly report any emergency change to the appropriate TTB officer.

(26 U.S.C. 5172)

#### § 19.123 Statement of plant security.

If the proprietor makes changes to the personnel listed, or procedures contained in, the statement of plant security filed under § 19.76, the proprietor must:

(a) File a form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead application to amend the registration, in the case of any change in the description of plant security, employment of guard personnel, use of electronic or mechanical alarm system, or certification of required locks required under § 19.76(a) through (d);

(b) File a letterhead notice for any change in personnel who have custody and access to keys for the required locks as provided under § 19.76(e); and

(c) Incorporate any changes filed by letterhead notice in the next amendment to the registration on TTB F 5110.41 submitted, unless the appropriate TTB officer requires an immediate submission of TTB F 5110.41.

(26 U.S.C. 5171, 5172)

#### Rules for Amending an Operating Permit

##### § 19.126 General rules for amending an operating permit.

(a) *When and how to amend.* If there is a change in any of the information that the proprietor provided as part of the current approved application for an operating permit, the proprietor must amend the operating permit by submitting written documentation in

accordance with this section to the appropriate TTB officer in writing within 30 days of the change unless another time period is specified in this subpart.

(1) *TTB F 5110.25.* Except when a letterhead application or letterhead notice procedure is allowed under this subpart, the proprietor must amend the operating permit by submitting an amended form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d). If the changes only affect parts or pages of the application for an operating permit the proprietor only needs to submit the necessary pages or information that will make the permit file current.

(2) *Letterhead applications.* For certain changes specified in this subpart, the proprietor may submit a letterhead application instead of an amended TTB F 5110.25. The letterhead application must identify the distilled spirits plant for which the application applies. The letterhead application change is subject to TTB approval. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.25 if administrative difficulties occur as a result of the letterhead application.

(3) *Letterhead notices.* For certain changes noted in this subpart only a letterhead notice is required. A letterhead notice does not require approval by TTB. The appropriate TTB officer may, at any time, require that the proprietor submit amended application on TTB F 5110.25 if administrative difficulties occur as a result of the letterhead notice.

(b) *FAA Act permits.* If there are changes that affect a basic permit issued under the Federal Alcohol Administration Act, the proprietor must amend the basic permit in accordance with the procedures set forth in part 1 of this chapter.

(26 U.S.C. 5171, 5172)

##### § 19.127 Automatic termination of permits.

(a) *Operating permits.* An operating permit is not transferable. The proprietor's operating permit will automatically terminate in the following circumstances:

(1) If the operations that are authorized by the permit are leased, sold or transferred;

(2) If the company is dissolved on a certain date by an event specified in the laws of the State where the company operates; or

(3) In the case of a corporation, if actual or legal control of the corporation changes, directly or indirectly, whether by reason of change in stock ownership

or control, by operation of law, or in any other manner, the permit will terminate 30 days after the change in control. However, if an application for a new permit covering the operations is made within this 30 day period, then the operating permit may remain in effect until TTB takes final action upon the new application. TTB's final action on the new application will automatically terminate the outstanding permit.

(b) *Basic permits.* For provisions related to the automatic termination of an FAA Act basic permit, see part 1 of this chapter.

(26 U.S.C. 5271)

#### § 19.128 Change in name of proprietor.

If the name of the proprietor changes, the proprietor must file a letterhead application to amend the operating permit. The proprietor may not conduct operations under the new name before TTB approves the amended operating permit. However, the proprietor does not have to file a new bond or consent of surety.

(26 U.S.C. 5172, 5271)

#### § 19.129 Change in trade name.

If the proprietor intends to change or add a trade name that will be used in the operation of the plant, the proprietor must file a letterhead application to amend the operating permit. The proprietor may not conduct operations under the new trade name before TTB approves the amended operating permit. However, the proprietor will not be required to file a new bond or consent of surety.

(26 U.S.C. 5271)

#### § 19.130 Changes in stockholders or persons with interest.

The proprietor must notify TTB of any changes in the list of stockholders or persons with interest that was filed with TTB as required by § 19.93(b). If the change results in a change of control, the proprietor must file form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), within 30 days of the change. If the change does not cause a change in control the proprietor:

- (a) May file a letterhead notice to amend the operating permit;
- (b) May file the amended notice the May 1st following the change in control year rather than within 30 days of the change, or on any other date that the appropriate TTB Officer may approve; and
- (c) Must incorporate all changes submitted by letterhead notice in the next TTB F 5110.25 filed.

(26 U.S.C. 5172, 5271)

#### § 19.131 Changes in officers, directors, members, or managers.

(a) *General.* If there is a change in the list of officers, directors, members or managers that the proprietor filed as required by § 19.93, the proprietor must:

- (1) File form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) or a letterhead notice to amend the operating permit;
- (2) Provide the name and address for each new officer, director, member or manager; and
- (3) Incorporate all changes submitted by letterhead notice in the next TTB F 5110.25 filed.

(b) *Waiver.* The appropriate TTB officer may waive the requirement to amend the operating permit if the changes relate to corporate officers listed on the original or current permit who are no longer connected with the operations covered by the permit.

(26 U.S.C. 5171, 5172)

#### § 19.132 Change in proprietorship.

(a) *General.* If there is a change in proprietorship at a distilled spirits plant that holds an operating permit, the following requirements apply to the outgoing proprietor and to the incoming (successor) proprietor.

(1) *Outgoing proprietor.* An outgoing proprietor must comply with the requirements of § 19.147. An outgoing proprietor may transfer spirits to its successor an accordance with § 19.141.

(2) *Successor proprietor.* A successor to the proprietorship of a plant that holds an operating permit:

- (i) Must file form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) and obtain an operating permit;
- (ii) Must file the required bonds; and
- (iii) May adopt the approved formulas of its predecessor in accordance with §§ 5.28 and 20.63 of this chapter.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must comply with the provisions of paragraph (a)(2) of this section. The following rules also apply in this case:

- (1) The fiduciary may furnish a consent of surety to extend the terms of the predecessor's bond instead of filing a new bond;
- (2) On TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), the fiduciary may incorporate by reference any information contained in the predecessor's application that is still current;
- (3) The successor must furnish a certified copy of the order of the court or other pertinent document showing

the successor's qualification as fiduciary; and

(4) The effective date of the qualifying documents that the fiduciary files will be the date of the court order, the date specified in the order whereby the fiduciary assumes control, or if there is no court order, the date that the fiduciary assumed control.

(26 U.S.C. 5172)

#### § 19.133 Partnerships.

(a) If there is a death or insolvency of a partner in a company that holds an operating permit under this part, the surviving partner or partners may continue to operate under the operating permit if:

(1) The partnership is not terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have exclusive right to the control and possession of the partnership assets for purposes of liquidation and settlement; and

(3) A consent of surety is filed where the surety and the surviving partner or partners agree to remain liable on the operations or unit bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file as an incoming proprietor and receive approval of the operating permit as required under § 19.132(a)(2).

(26 U.S.C. 5172)

#### § 19.134 Change in location.

If the location of the plant changes, the proprietor must:

(a) File form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), to amend the operating permit;

(b) File a new bond or a consent of surety on form TTB F 5000.18; and

(c) Not begin operations at the new location prior to approval of the amended operating permit.

(26 U.S.C. 5172, 5271, 5173)

#### § 19.135 Change in operations.

If the proprietor wishes to conduct additional operations involving spirits, other than those already approved on the current operating permit, the proprietor must:

(a) File form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) to amend the permit; and

(b) Not engage in the additional operation prior to approval of the amended permit.

(26 U.S.C. 5171, 5172, 5271)

**Alternation of Plant Proprietors****§ 19.141 Procedures for alternation of proprietors.**

(a) *General.* A proprietor may alternate use of a distilled spirits plant or part of the plant with one or more other proprietors. In order to do so, each proprietor must separately file and receive approval of the necessary registration, applications and bonds that are required by subparts D and E of this part. Each proprietor must also conduct operations and keep records in accordance with the regulations in this part. Where operations by alternating proprietors will be limited to parts of the plant, each proprietor must include the following in the notice of registration:

(1) A description of the areas, rooms or buildings, or combination of rooms or buildings that will alternate between proprietors;

(2) The method that the proprietor will use to separate the alternated premises from any premises that will not be alternated; and

(3) Diagrams of the parts of the plant that will be alternated.

(b) *Letterhead notice.* After a proprietor receives approval to alternate use of the premises with another proprietor, the alternating proprietors must separately file letterhead notices each time they intend to alternate use of the premises. The proprietors may file a single notice if the notice is signed by each proprietor or an authorized representative of each proprietor. The proprietors must submit the letterhead notice to the appropriate TTB officer prior to the first day that alternation is to take place. Proprietors must include the following with the notice:

(1) The plant number and the name of the proprietor filing the notice;

(2) Identification of the outgoing proprietor and incoming proprietor (by name and plant number);

(3) The effective date and hour of the alternation;

(4) Identification of any applicable diagrams provided with the registration of each proprietor filed under paragraph (a) of this section, showing the portions of the premises involved in the alternation;

(5) The purpose of the alternation;

(6) If distilling materials, unfinished or finished spirits, denatured spirits, or wine will be transferred to the incoming proprietor, a statement to that effect; and

(7) If denatured spirits or articles will be retained in the processing account in locked tanks during the period of alternate proprietorship, a statement to that effect.

(c) *Alternation of production operations.* In the case of an outgoing proprietor who intends to alternate production operations with another proprietor, the outgoing proprietor must:

(1) Completely process all distilling materials and unfinished spirits in any bonded areas, rooms, or buildings that will alternate unless the outgoing proprietor transfers them to the incoming proprietor; and

(2) Mark and remove all finished spirits in the name in which they were produced before a production gauge is made by the incoming proprietor.

(d) *Alternation of storage operations.* In the case of an outgoing proprietor who intends to alternate storage operations with another proprietor, the outgoing proprietor must:

(1) Transfer in bond any spirits or wines in any bonded areas, rooms, or buildings that will be alternated; and

(2) Execute a form TTB F 5000.18, Change of Bond (Consent of Surety), to continue in effect the operations or unit bond whenever operations of the areas, rooms, or buildings will be resumed by the outgoing proprietor following suspension of operations by the other proprietor.

(e) *Alternation of processing operations.* In the case of an outgoing proprietor who intends to alternate processing operations with another proprietor, the outgoing proprietor:

(1) Before the effective date and time of the alternation, must process to completion and remove from the affected area all spirits, denatured spirits, wines, or articles located in any rooms, areas, or buildings that will alternate, or must transfer these spirits, wines, and articles in bond to the incoming proprietor;

(2) Must execute a TTB F 5000.18, Change of Bond (Consent of Surety), to continue in effect the operations or unit bond whenever operations of the areas, rooms, or buildings will be resumed by the outgoing proprietor following suspension of operations by the other proprietor; and

(3) May retain denatured spirits and articles in tanks locked with approved locks if the outgoing proprietor maintains custody and control of the locks and keys for the tanks. In this case, the outgoing proprietor must obtain a consent of surety on TTB F 5000.18 to continue liability on the operations or unit bond for the tax on the denatured spirits or articles that retained in the locked tanks.

(f) *Records.* Each alternating proprietor must maintain its own records and submit its own reports. Records kept by an outgoing proprietor

for spirits, wines, and alcoholic flavoring materials may be used by the incoming proprietor. All transfers of distilling materials, unfinished spirits, spirits, denatured spirits, and wines must be reflected in the records of each proprietor.

(26 U.S.C. 5172, 5271)

**Conduct of Alternate Operations at a Plant****§ 19.142 Alternate use of premises and equipment for customs purposes.**

(a) *General.* The proprietor may extend or curtail the distilled spirits plant premises or a part of those premises for temporary use by Customs and Border Protection officers for customs purposes. If the proprietor wishes to alternate the use of the premises for customs purposes, that use must be approved by the port director of customs and must be conducted in accordance with applicable customs laws and regulations.

(b) *Qualification.* Before alternating the plant premises for customs purposes, the proprietor must file and receive approval of the necessary registration, application and bonds as required by this part. The proprietor's application for registration must include the following:

(1) A description of the areas, rooms or buildings, or combination of rooms or buildings that will be alternated;

(2) A diagram of the parts of the plant that the proprietor will use for the alternation; and

(3) The method that the proprietor will use to separate the alternated premises from any premises not subject to alternation.

(c) *Letterhead notice.* After the proprietor receives approval to alternate premises for customs purposes, the proprietor must file a letterhead notice with the appropriate TTB officer each time the premises will be alternated. The notice must include the following information:

(1) The name and plant number of the proprietor filing the notice;

(2) The date and hour the alternation will take place;

(3) Identification of any applicable diagrams provided with the registration filed under paragraph (b) of this section, showing the portions of the premises involved in the alternation;

(4) The purpose of the alternation;

(5) If the alternation is for gauging or processing distilled spirits, a statement to that effect; and

(6) An indication of the class of temporary customs warehouse, if applicable.

(d) *Proprietor responsibilities.* Prior to the start of alternation for customs

purposes, the proprietor must remove all spirits from the premises or equipment that will be involved in the alternation. However, upon release by customs, spirits in the process of being transferred to bonded premises under 26 U.S.C. 5232 may remain on the premises to be reincluded in the bonded premises.

(e) *Exceptions.* The qualification requirements in paragraph (b) of this section and the notice requirements in paragraph (c) of this section will not apply where the proprietor solely intends to gauge bulk distilled spirits for transfer from customs custody to TTB bond.

(f) *Conveyance of spirits in customs custody.* If the proprietor intends to convey spirits in customs custody across the distilled spirits plant premises the proprietor must comply with § 19.60.

(26 U.S.C. 5172, 5178)

#### § 19.143 Alternation for other purposes.

(a) *General.* The proprietor may temporarily extend or curtail the distilled spirits plant premises to allow for several other types of alternate uses. Premises may be alternately curtailed or extended to allow bonded premises to be used temporarily as general premises, or to allow general premises to be used as bonded premises. A curtailment or extension of distilled spirits plant premises may also allow for the use of the premises as:

- (1) An adjacent bonded wine cellar;
- (2) An adjacent taxpaid wine bottling house;
- (3) An adjacent brewery; or
- (4) Facilities for the manufacturer of eligible flavors.

(b) *Qualifying documents.* Before alternating the premises for a purpose listed in paragraph (a) of this section, the proprietor must file and receive approval of the necessary registration, application forms and attachments that relate to the proposed alternate use. Depending on the type of alternation involved, the proprietor must file one or more of the following qualification documents:

(1) *Registration.* For all alternate uses of the distilled spirits plant described in paragraph (a) of this section the proprietor must file a form TTB F 5110.41, Registration of a Distilled Spirits Plant, to cover the proposed alternation of premises.

(2) *Diagram.* For all alternate uses, the proprietor must provide a special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment that are to be subject

to alternation, in their relative operating sequence.

(3) *Bond.* For all alternate uses, the proprietor must provide evidence of an existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.

(4) *Bonded wine cellar or taxpaid wine bottling house.* If the proprietor intends to alternate the premises or part of the premises as a bonded wine cellar or taxpaid wine bottling house the proprietor must also file form TTB F 5120.25, Application to Establish and Operate Wine Premises.

(5) *Brewery.* If the proprietor intends to alternate the premises or part of the premises for a brewery operation the proprietor must file form TTB F 5130.10, Brewer's Notice.

(c) *Separation of premises.* The proprietor must separate the distilled spirits plant premises from the alternate use premises in accordance with the approved plan of alternation described in the qualifying documents.

(d) *Segregation of products.* When the proprietor alternates premises, the proprietor must segregate products as follows:

(1) *Wine operations.* (i) Prior to alternation from distilled spirits plant premises to wine premises, the proprietor must remove all distilled spirits, denatured spirits, articles and wine from the distilled spirits plant premises that will be alternated. However, the proprietor may keep spirits on the premises if they are being withdrawn for use in wine production under § 19.419, or for use in the production of nonbeverage wine or wine products under § 19.421. Further, the proprietor may keep wine on the premises if it is to be transferred in bond under § 19.402(b)(2).

(ii) Prior to alternation from wine premises to distilled spirits plant premises, the proprietor must remove all wine and spirits from the wine premises that will be alternated. However, the proprietor may keep wine on the premises if it is being transferred in bond under § 19.402(b)(1). Further, the proprietor may keep spirits on the premises if they are being returned from bonded wine cellar premises to distilled spirits plant bonded premises under § 19.454.

(2) *Brewery.* Prior to alternation from distilled spirits plant premises to operation of a brewery the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated to brewery premises. Prior to alternation of brewery premises to distilled spirits plant premises, the proprietor must remove all beer from the premises except beer

that is being received for production of distilled spirits as provided in § 19.296.

(3) *General premises.* Prior to alternation between bonded and general premises, the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated. However, the proprietor may keep bonded spirits on portions of bonded premises to be alternated to general premises if the spirits are taxpaid concurrently with the alternation. Also, the proprietor may keep taxpaid spirits on general premises that will be alternated to bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart Q of this part.

(4) *Manufacture of nonbeverage products.* Prior to alternation of the distilled spirits plant premises for use in the manufacture of eligible flavors, the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated. However, the proprietor may keep spirits on portions of the premises to be curtailed if the proprietor pays the tax concurrent with the alternation. Further, the proprietor may keep taxpaid spirits that have not been used in the manufacture of a nonbeverage product on parts of the premises to be included in the extension of the bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart Q of this part.

(e) *Records.* The proprietor must prepare the record of alternating premises prescribed by § 19.627 each time that the proprietor alternates premises.

(26 U.S.C. 5172, 5178)

#### § 19.144 Alternation of distilled spirits plant and volatile fruit-flavor concentrate plant premises.

The proprietor may temporarily extend or curtail the distilled spirits plant premises for alternate use with the premises of a contiguous volatile fruit-flavor concentrate plant. If a proprietor wishes to use all or a portion of the premises alternately as a volatile fruit-flavor concentrate plant or vice versa, the proprietor must comply with the requirements of §§ 18.39 and 18.41 through 18.43 of this chapter.

(26 U.S.C. 5172, 5178)

#### Discontinuance of Operations

##### § 19.147 Notice of discontinuance of operations.

If the proprietor plans to permanently discontinue one or more of the operations listed on the notice of registration filed under subpart D of this part, the proprietor must notify the

appropriate TTB officer by filing form TTB F 5110.41, Registration of Distilled Spirits Plant, to show discontinuance of operations. The proprietor must submit the following with TTB F 5110.41:

- (a) The permit covering each discontinued operation;
  - (b) A written request for cancellation of the permit(s);
  - (c) A written statement indicating whether or not—
    - (1) The proprietor has lawfully disposed of all spirits, denatured spirits, articles, wines, liquor bottles, and other pertinent items;
    - (2) There are any spirits, denatured spirits, wines, or liquor bottles in transit to the premises; and
    - (3) The proprietor has secured and returned to the appropriate TTB officer for cancellation all approved applications for transfer of spirits and denatured spirits to the premises; and
  - (d) A final monthly operations report, as provided for under § 19.632, for each discontinued operation, with each report marked “Final Report.”
- (26 U.S.C. 5172, 5271)

#### Subpart F—Bonds and Consents of Surety

##### Bonding Requirements for a DSP

###### § 19.151 General.

(a) *Bond required.* Any person who plans to establish and operate a distilled spirits plant must provide TTB with one or more bonds on form TTB F 5110.56, Distilled Spirits Bond. TTB will not approve a registration or allow a person to operate a distilled spirits plant until the applicant has provided the necessary bonds. If a proprietor fails to pay any liability covered by a bond, TTB may seek payment from the proprietor, from the surety (see § 19.153) or from both the proprietor and the surety. The types and penal sums of bonds required will depend upon the type and size of the operations that the proprietor will conduct.

(b) *Bond terms and conditions.* The terms and conditions of a distilled spirits bond require that the proprietor comply with all provisions of law and regulations relating to activities covered by the bond, and to pay all taxes imposed by 26 U.S.C. chapter 51, including taxes on unexplained shortages of bottled distilled spirits. The bond will further specify that the proprietor will pay all penalties incurred, or fines imposed, for violations of law and regulations relating to activities covered by the bond. The specific terms of the required bond(s) are stated on TTB F 5110.56.

(c) *Corporations and controlled subsidiaries.* For purposes of this

subpart, the term “corporation” includes a Limited Liability Company (LLC) or Limited Liability Partnership (LLP) in any jurisdiction where the law authorizes such a business organization to operate. Whenever used in this subpart, the term “controlled subsidiary” means a corporation (or LLC or LLP) in which more than 50 percent of the voting power is controlled by a parent corporation.

(26 U.S.C. 5173, 5551)

###### § 19.152 Types of bonds.

(a) *Basic Bonds.* There are two basic types of bonds: the operations bond, and the withdrawal bond.

(1) *Operations bond.* An operations bond covers the tax liability for a variety of operations at a distilled spirits plant, along with any penalties incurred and fines imposed for violation of the law and regulations relating to activities covered by the bond.

(2) *Withdrawal bond.* A withdrawal bond covers the tax liability for tax determined distilled spirits withdrawn from the bonded premises on a tax deferred basis.

(b) *Other bonds.* In addition to the basic operations and withdrawal bonds, several variations of these bonds are available:

(1) An adjacent wine cellar bond covers operations at a distilled spirits plant and an adjacent bonded wine cellar;

(2) An area bond covers operations at two or more distilled spirits plant and any adjacent bonded wine cellars; and

(3) A unit bond covers both operations and withdrawals at one or more distilled spirits plants and operations at any adjacent bonded wine cellars.

(26 U.S.C. 5173)

###### § 19.153 Bond guaranteed by a corporate surety.

(a) *Corporate surety.* A company that issues bonds is called a “corporate surety.” Proprietors must obtain the surety bonds required by this subpart from a corporate surety approved by the Secretary of the Treasury.

(b) *How to find an approved surety.* The Department of the Treasury publishes a list of approved corporate surety companies in Treasury Department Circular No. 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.” Circular 570 is published annually in the **Federal Register**. The most current edition of the circular is posted at the Web site of the Financial Management Service, Department of the Treasury at <http://www.fms.treas.gov/c570>. Printed copies of Circular 570 are available for purchase from the Government Printing Office.

(31 U.S.C. 9304, 9306)

###### § 19.154 Bond guaranteed by deposit of securities.

(a) *General.* As an alternative to the corporate surety bond under § 19.153, a person can file a bond that guarantees payment of the liability by pledging one or more acceptable negotiable securities. These securities must have a par value (face amount) equal to or greater than the penal sums of the required bonds. The pledged securities are held in the Federal Reserve Bank in a safekeeping account with TTB as the pledgee. Should the proprietor fail to pay one or more of the guaranteed liabilities, TTB can take action to sell the deposited securities to satisfy the debt. Pledged securities will be released if there are no outstanding liabilities when the bond is terminated. (See § 19.170.)

(b) *Acceptable securities.* Only public debt obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States Government, are acceptable for the purpose described in paragraph (a) of this section. The Department of the Treasury and certain other United States Government agencies issue debt instruments that are acceptable as collateral, such as Treasury notes and Treasury bills. Savings bonds, certificates of deposit and letters of credit are not acceptable. A list of securities acceptable as collateral in lieu of surety bonds is available from the Bureau of the Public Debt, Office of the Commissioner, Government Securities Regulations Staff. Current information and guidance from the Bureau of the Public Debt may be found at <http://www.publicdebt.treas.gov>.

(31 U.S.C. 9301, 9303; 31 CFR part 380)

###### § 19.155 Change of surety bond terms—consent of surety.

In order to change the terms of an approved bond, both the principal and the surety company that guaranteed the bond must agree to the change. TTB must also approve the change. All changes to the terms of a bond must be executed on form TTB F 5000.18, Change of Bond (Consent of Surety) by both the principal and the surety with the same formality and proof of authority as required for the original bond. The completed, executed TTB F 5000.18 must be submitted to the National Revenue Center.

(26 U.S.C. 5173)

**§ 19.156 Power of attorney for surety.**

(a) *Requirement for power of attorney.* Every bond and every consent of surety filed with TTB in which an agent or officer executed the bond or consent on behalf of the surety must be supported by a power of attorney authorizing the agent or officer to execute the bond or consent of surety. The power of attorney assures TTB that the person who signed the bond on behalf of the surety has the legal authority to obligate the surety.

(b) *Form of power of attorney and endorsement.* A power of attorney will be prepared on the surety's own form, and must be executed under the surety's corporate seal. If the power of attorney submitted is other than a manually signed original, it must be accompanied by a certification from the surety that the power of attorney is valid.

(c) *Additional documentation.* The appropriate TTB officer authorized to approve and accept the bond may require additional evidence of the authenticity of signatures and the authority of persons signing on behalf of the surety to execute the bond or consent.

(31 U.S.C. 9304, 9306)

**§ 19.157 Disapproval of bonds and consents of surety.**

(a) *Grounds for disapproval.* The appropriate TTB officer may disapprove any bond or consent of surety required by this part if the principal or any person having ownership, control or responsibility for actively managing the business of the surety has been previously convicted, in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of any law of the United States relating to internal revenue or customs taxation of spirits, wines, or beer, or if the offense was compromised by payment of penalties or otherwise, or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(b) *Appeal.* If the appropriate TTB officer disapproves a bond or consent of surety, the person giving the bond may appeal the disapproval to the Administrator, who will hear the appeal. The decision of the Administrator will be final.

(26 U.S.C. 5551)

**Requirements for Operations and Withdrawal Bonds****§ 19.161 Operations bond.**

(a) *General.* Any person who intends to establish a distilled spirits plant must furnish an operations bond (or a unit bond, see § 19.165) covering distilled spirits operations at such plant on TTB F 5110.56 with the original application to register the distilled spirits plant.

(b) *Approval of bond.* The appropriate TTB officer may require a statement, executed under the penalty of perjury, as to whether the principal, or any person owning, controlling, or managing the business of the applicant has been convicted of, or has compromised any offense listed in § 19.157(a)(1), or has been convicted of any offense listed in § 19.157(a)(2). If the above statement contains an affirmative answer, the applicant must provide an additional detailed statement describing the circumstances surrounding each conviction or compromise. The appropriate TTB officer will decide whether to approve or disapprove the bond.

(26 U.S.C. 5173, 5551)

**§ 19.162 Operations bond for distilled spirits plant and adjacent bonded wine cellar.**

(a) *One bond satisfying two requirements.* A proprietor who operates a bonded wine cellar that is adjacent to the proprietor's distilled spirits plant may file a single operations bond to cover the operations of the distilled spirits plant and the bonded wine cellar. A proprietor who files this type of bond satisfies the requirement in 26 U.S.C. 5173 for an operations bond covering the distilled spirits plant and the requirement in 26 U.S.C. 5354 for a bond covering wine and spirits possessed at, and in transit to, the bonded wine cellar. (The proprietor may still have to obtain a supplemental bond for the wine cellar to cover liabilities resulting from deferred payment of tax. See the second sentence of 26 U.S.C. 5354.)

(b) *One bond combining terms and coverage of separate bonds.* An operations bond filed under paragraph (a) of this section must contain the same terms and conditions that would be in separate bonds for the distilled spirits plant and for the bonded wine cellar. The proprietor may not allocate or divide the penal sum between the distilled spirits plant and the bonded wine cellar. The total amount of the bond must be available to satisfy any liability incurred under the terms of the bond at either facility.

(c) *Persons qualified for a single bond.* A proprietor may choose to file a single operations bond for a distilled spirits plant and adjacent bonded wine cellar only if:

(1) Such distilled spirits plant is qualified under subpart D of this part for the production of distilled spirits; and

(2) Such wine cellar and distilled spirits plant are operated by the same person (or in the case of a corporation, by such corporation and its controlled subsidiaries).

(26 U.S.C. 5173, 5351, 5354)

**§ 19.163 Area operations bond.**

(a) *Area operations bond covering multiple locations.* A person who operates more than one distilled spirits plant within the geographical area serviced by the National Revenue Center may submit to TTB an area operations bond covering the operations of any two or more such plants and any bonded wine cellars that are adjacent to such plants and which otherwise could be covered by an operations bond. Area operations bonds filed under this section will be in lieu of the operations bond requirements for single distilled spirits plants under §§ 19.161 and 19.166 and must contain the same terms and conditions as those contained in separate bonds filed for single distilled spirits plants. Any person who files an area operations bond may not allocate or divide the penal sum of the area operations bond between the separate locations and the total penal sum of the bond must be available to satisfy liability incurred at any of the covered locations.

(b) *Area operations bonds filed by corporations.* An area operations bond may only cover distilled spirits plants and adjacent bonded wine cellars that are operated by the same person. For purposes of this section, a corporation and its controlled subsidiaries are considered to be one person. Further, a controlled subsidiary is a corporation in which more than 50 percent of the voting power is controlled by the parent corporation. Consequently, an area operations bond may cover distilled spirits plants and adjacent bonded wine cellars operated by a parent corporation and one or more of its controlled subsidiaries. The name of each corporation that operates a covered facility must appear on the bond as a principal, whether the operating corporation is the parent or a subsidiary. The bond must bear an authorized signature for each operating corporation appearing on the bond.

(26 U.S.C. 5173)



**§ 19.164 Withdrawal bond.**

(a) *Requirement for a withdrawal bond.* If a person intends to withdraw spirits from a distilled spirits plant upon determination of the taxes due on the spirits but before payment of the tax, the person must provide TTB with a withdrawal bond for the distilled spirits plant. The withdrawal bond must guarantee payment of any taxes due on distilled spirits withdrawn from bonded premises up to the amount of the bond. Such bond will be in addition to the operations bond, and if the distilled spirits are withdrawn under the withdrawal bond, the operations bond will no longer cover liability for payment of the tax on the spirits withdrawn. For purposes of this section, a person includes a corporation, together with all of its controlled subsidiaries, and a controlled subsidiary has the same meaning as in § 19.163(b).

(b) *One bond covering multiple plants.* A person who operates more than one distilled spirits plant within the geographical area serviced by the National Revenue Center may submit to TTB a single withdrawal bond that covers withdrawals from all such distilled spirits plants within that geographic area.

(c) *Penal sum of bonds—(1) Penal sum of a bond covering a single plant.* A person who files a withdrawal bond for a single plant must compute the penal sum of such bond in accordance with § 19.166. If the penal sum of such bond is less than the maximum amount, withdrawals from the plant may not exceed the penal sum.

(2) *Penal sum of bond covering multiple plants.* A person who files one withdrawal bond to cover two or more

distilled spirits plants must compute the required penal sum for each plant individually in accordance with § 19.166. The penal sum of the withdrawal bond must be equal to, or greater than, the total of the minimum amounts required for the individual plants. The bond must show the amount of coverage allocated to each individual plant as well as the total penal sum for all plants. If the portion of the penal sum allocated to a particular plant is less than the maximum amount prescribed in § 19.166 for a single plant, withdrawals from that plant must not exceed the amount of the penal sum allocated to that plant. The allocation of the penal sum notwithstanding, the entire penal sum of the bond must be available to satisfy all liability for tax on withdrawals from any and all of the covered plants.

(26 U.S.C. 5173)

**§ 19.165 Unit bonds.**

(a) *Unit bond covering operations and withdrawals.* If a person is otherwise required to file bonds for both operations at one or more distilled spirits plants and withdrawals from one or more distilled spirits plants, the person may instead submit a single unit bond that provides all of the guarantees that would otherwise be provided by separate operations and withdrawal bonds. The unit bond may also provide coverage for operations at adjacent bonded wine cellars. For purposes of this section, a person includes a corporation, together with all of its controlled subsidiaries, and a controlled subsidiary has the same meaning as in § 19.163(b).

(b) *Required penal sum—(1) General.* A person must determine the penal sum for the unit bond by separately calculating in accordance with § 19.166, and then totaling, the amounts needed to cover operations and withdrawals at each individual plant covered by the bond. The penal sum for the unit bond must not be less than the sum of the minimum penal sums that would be required if each of the plants had its own bond.

(2) *Allocation between operations and withdrawals.* A unit bond must show separately the amount of coverage provided for operations (including operations at each adjacent bonded wine cellar if applicable) and for withdrawals at each distilled spirits plant covered by the bond.

(3) *Tax liability must not exceed allocated penal sum.* If the amount of the penal sum allocated to operations at, or withdrawals from, a particular plant is less than the maximum amount prescribed in § 19.166 for a single plant, the tax liability for operations at, or withdrawals from, that plant must not exceed that allocated amount.

(4) *Total penal sum available for each plant.* Even when the penal sum of a unit bond is allocated among multiple plants, the bond must provide that the total penal amount of the bond will be available to satisfy any liability incurred under the terms and conditions of the bond at any plant covered by the bond.

(26 U.S.C. 5173)

**§ 19.166 Required penal sums.**

A person must determine the penal sums for the various bonds required by this subpart according to the following table:

(a) Operations bond for a single plant operating as a:	Required penal sum represents:	The penal sum must be:	
		Not less than—	and need not be more than—
(1) Distiller .....	The amount of tax on spirits produced during a 15-day period ...	\$5,000	\$100,000
(2) Warehouseman, in general .....	The amount of tax on spirits and wines deposited in, stored on, and in transit to, the bonded premises.	5,000	200,000
(3) Warehouseman limited to storage of spirits in packages to a total of not over 50,000 proof gallons.	The amount of tax on spirits and wines deposited in, stored on, and in transit to, the bonded premises.	5,000	50,000
(4) Distiller and warehouseman .....	The amount of tax on spirits produced during a period of 15 days, plus the tax on spirits and wines deposited in, stored on, and in transit to the bonded premises.	10,000	200,000
(5) Distiller and processor .....	The amount of tax on spirits produced during a 15-day period, plus the amount of tax on spirits, denatured spirits, articles and wines deposited in, or stored on, and in transit to the bonded premises.	10,000	200,000
(6) Warehouseman and processor in general.	The amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to, the bonded premises.	10,000	250,000

(a) Operations bond for a single plant operating as a:	Required penal sum represents:	The penal sum must be:	
		Not less than—	and need not be more than—
(7) Warehouseman and processor, limited to storage of spirits or denatured spirits in packages to a total of not over 50,000 proof gallons, and processing of spirits or denatured spirits so stored.	The amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to, the bonded premises.	10,000	50,000
(8) Distiller, warehouseman and processor	The amount of tax on spirits produced during a 15-day period, plus the amount of tax on spirits, denatured spirits, articles and wines deposited in, stored on, and in transit to, the bonded premises.	15,000	250,000
(9) Distiller with adjacent bonded wine cellar.	The amount required for a distiller (see paragraph (a)(1). above) plus the amount of tax on wines and wine spirits possessed on, and in transit to, the adjacent wine cellar.	6,000	150,000
(10) Distiller and warehouseman with adjacent bonded wine cellar.	The amount required for a distiller & warehouseman (see paragraph (a)(4). above) plus the amount of tax on wines and wine spirits possessed on, and in transit to, the adjacent wine cellar.	11,000	250,000
(11) Distiller and processor with adjacent bonded wine cellar.	The amount required for a distiller & processor (see paragraph (a)(5). above) plus the amount of tax on wines and wine spirits possessed on, and in transit to, the adjacent wine cellar.	11,000	250,000
(12) Distiller, warehouseman and processor with adjacent bonded wine cellar.	The amount required for a distiller-warehouseman-processor (see paragraph (a)(8). above) plus the amount of tax on wines and wine spirits possessed on, and in transit to, the adjacent wine cellar.	16,000	300,000
(b) Area operations bond for two or more plants whose combined required penal sums under paragraph (a) of this section:		Required penal sum is:	
(1) Do not exceed \$300,000 .....	100% .....	\$300,000	
(2) Exceed \$300,000 but do not exceed \$600,000 .....	\$300,000 plus 70% of the amount over \$300,000 .....	510,000	
(3) Exceed \$600,000 but do not exceed \$1,000,000 .....	\$510,000 plus 50% of the amount over \$600,000 .....	710,000	
(4) Exceed \$1,000,000 but do not exceed \$2,000,000 .....	\$710,000 plus 35% of the amount over \$1,000,000 .....	1,060,000	
(5) Exceeds \$2,000,000 .....	\$1,060,000 plus 25% of the amount over \$2,000,000.		
(b) Area operations bond for two or more plants whose combined required penal sums under paragraph (a) of this section:		But need not be more than:	
(1) Do not exceed \$300,000 .....	100% .....	\$300,000	
(2) Exceed \$300,000 but do not exceed \$600,000 .....	\$300,000 plus 70% of the amount over \$300,000 .....	510,000	
(3) Exceed \$600,000 but do not exceed \$1,000,000 .....	\$510,000 plus 50% of the amount over \$600,000 .....	710,000	
(4) Exceed \$1,000,000 but do not exceed \$2,000,000 .....	\$710,000 plus 35% of the amount over \$1,000,000 .....	1,060,000	
(5) Exceeds \$2,000,000 .....	\$1,060,000 plus 25% of the amount over \$2,000,000.		
(c) Withdrawal bond for:	Required penal sum represents:	The penal sum must be:	
		Not less than—	and need not be more than—
(1) One distilled spirits plant .....	The amount of tax which, at any one time, is chargeable against such bond, but has not yet been paid.	\$1,000 .....	\$1,000,000.
(2) Two or more distilled spirits plants.	Sum of the penal sums for each plant calculated in paragraph (c)(1) of this section.	$(\$1,000) \times (\text{number of plants})$ .	$(\text{Number of plants}) \times \$1,000,000$ .
(d) Unit bond for:	Required penal sum represents:	The penal sum must be:	
		Not less than—	and need not be more than—
(1) Operations at one distilled spirits plant (including any adjacent bonded wine cellar), and withdrawals from the bonded premises of the same plant.	An amount equal to the sum of the required penal sums of an operations bond and a withdrawal bond for the plant, if such bonds were obtained separately. (See paragraphs (a) and (c)(1) in this section.)	\$6,000 .....	\$1,300,000.
(2) Operations at two or more distilled spirits plants (including any adjacent bonded wine cellars), and withdrawals from the bonded premises of the same plants.	An amount equal to the sum of the penal sums of an area operations bond and withdrawal bonds needed for all of the covered plants, if such bonds were obtained separately. (Total penal sums of paragraphs (b) and (c)(2) in this section.)	Sum of the minimum penal sums for operations and withdrawal bonds required for each plant covered by the bond.	Sum of the maximum penal sums for area operations bonds and withdrawal bonds required for the plants covered by the unit bond.

(26 U.S.C. 5173)

**§ 19.167 Increase of bond coverage.**

(a) *When required.* If the penal sum of a bond is less than the maximum amount specified by § 19.166, and

liabilities increase to the point where they exceed the bond coverage, the proprietor must increase the amount of the bond to cover the increased liability. The proprietor must increase the bond coverage either by replacing the existing

bond with a new, larger bond that covers the entire liability, or by supplementing the existing bond with a separate strengthening bond in accordance with paragraph (b) of this section.

(b) *Strengthening bonds.* A strengthening bond is a second bond with the same surety as on the original bond which covers the increased liability. A strengthening bond must show both its execution date and its effective date. TTB will not accept a strengthening bond if it contains any term or condition that is a release, or could be interpreted as a release, from liability under any former bond, or that limits the liability of any bond to less than its full penal sum.

(26 U.S.C. 5173)

**§ 19.168 Superseding bonds.**

(a) *General.* In any of the circumstances outlined in paragraphs (b) through (d) of this section, the proprietor must replace an existing bond with a new bond. A new bond that replaces another bond is called a superseding bond.

(b) *Surety company no longer acceptable.* The proprietor must file a superseding bond if the surety on the proprietor's current bond becomes insolvent or if the surety is removed from the list of approved sureties in Treasury Circular 570. TTB may also require the filing of a superseding bond if any other contingency affecting the validity or efficiency of the bond arises.

(c) *Change of control.* An executor, administrator, assignee, receiver, trustee, or other person acting in a fiduciary capacity, continuing or liquidating the business of the principal on a bond, must either provide TTB with a superseding bond, or obtain consent from the surety on each existing bond when assuming control of the business.

(d) *Termination of bond by surety.* If the surety applies to terminate a bond under § 19.171, and the proprietor wishes to continue the activity covered by the bond, the proprietor must file a superseding bond that becomes effective on or before the termination date of the existing bond. The superseding bond must show both its execution date and its effective date.

(26 U.S.C. 5173, 5175, 5176, 5551)

**§ 19.169 Effect of failure to furnish a superseding bond.**

(a) *Operations bond.* A person may not operate a distilled spirits plant without an operations bond. If a person does not submit an acceptable superseding operations bond when required to do so under § 19.168, the person must immediately discontinue the activities to which the lapsed bond coverage relates upon lapse of the existing bond coverage.

(b) *Withdrawal bond.* A person who does not submit an acceptable

superseding withdrawal bond when required to do so under § 19.168 may not withdraw distilled spirits from the bonded premises on a deferred basis. Upon lapse of the existing bond coverage the person must pay the tax at the time of withdrawal, except in the case of distilled spirits withdrawn free of tax or withdrawn without payment of tax under 26 U.S.C. 5214 or withdrawn exempt from tax under 26 U.S.C. 7510.

(c) *Unit bond.* A person who does not provide an acceptable superseding unit bond when required to do so under § 19.168 must immediately discontinue the business or distilled spirits operations to which the lapsed bond coverage relates. Upon lapse of the existing bond coverage the person must also pay the tax at the time of withdrawal, except in the case of distilled spirits withdrawn free of tax or withdrawn without payment of tax under 26 U.S.C. 5214 or withdrawn exempt from tax under 26 U.S.C. 7510.

(26 U.S.C. 5173, 5175, 5176)

**§ 19.170 Termination of bonds.**

Liability under operations bonds, withdrawal bonds, and unit bonds may be terminated for future withdrawals, future production, or future deposits as set forth below:

(a) *On application by the surety.* A surety may terminate a bond by filing a notice as provided in § 19.171;

(b) *By replacement of the bond.* A principal may terminate an existing bond by replacing it with a superseding bond approved by TTB;

(c) *By discontinuing withdrawals.* A principal may terminate a withdrawal bond by notifying TTB that the principal has stopped making withdrawals covered by the bond, if the bond was filed solely as a withdrawal bond; or

(d) *By discontinuing the business.* A principal may terminate a bond by notifying TTB that the principal has discontinued business.

(26 U.S.C. 5173)

**§ 19.171 Surety notice of relief from bond liability.**

(a) *Notice to principal.* A surety on a bond may, at any time, notify the principal in writing that the surety desires to be relieved of liability under the bond.

(b) *Notice to TTB.* A surety on a bond may, at any time, notify the appropriate TTB officer in writing that the surety desires to be relieved of liability under the bond. The notice must specify the date after which the surety desires to be relieved of liability. In the case of a withdrawal bond, the date specified in the notice must be at least ten days after

the notice is received by the appropriate TTB officer. In the case of an operations bond or unit bond, the date specified in the notice must be at least 90 days after the notice is received by the appropriate TTB officer. When a surety files a termination notice with TTB, the surety must include either an acknowledgement from the principal that the principal is aware that the surety is terminating the bond or proof that the surety has served the principal with notice of its intent to terminate the bond.

(c) *Effect of notice.* The bond coverage will end as of close of business on the date specified in the notice, provided the surety timely filed a proper and complete termination notice, and the surety does not withdraw its termination notice in writing prior to the termination date. The surety will be released from future liability under the bond to the extent set forth in § 19.172.

(26 U.S.C. 5173, 5175, 5176)

**§ 19.172 Relief of surety from bond liability.**

A surety that has provided proper notice under § 19.171 will be relieved from liability under the bond in question as set forth below:

(a) *Operations or unit bond.* When a superseding bond is submitted, the surety will be relieved of future liability related to production and deposits that take place after the effective date of the superseding bond. However, the surety remains liable for the tax on all distilled spirits or wines produced, or for other liabilities incurred, during the term of the bond. Further, if a superseding bond is not submitted, the surety will remain liable under the bond for all spirits or wines that are on hand or in transit to the bonded premises or bonded wine cellar on the date specified in the notice. The liability of the surety will continue until all such spirits or wines have been lawfully disposed of, or until a new bond has been submitted by the principal covering the spirits or wine.

(b) *Withdrawal or unit bonds.* The surety will be relieved from liability for withdrawals made after the date specified in the notice, or upon the effective date of a new bond if one is given.

(26 U.S.C. 5173, 5176)

**§ 19.173 Release of pledged securities.**

Securities that are pledged and deposited with TTB under § 19.154 will only be released by TTB in accordance with the provisions of 31 CFR Part 225, Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties. The appropriate TTB officer will not release pledged

securities prior to termination of the liability under the bond for which they were pledged. When the appropriate TTB officer is satisfied that the pledged securities may be released, the official will set a date or dates on which a part or all of the securities may be released. At any time prior to the release of the securities, the appropriate TTB officer may extend the date of release for any additional length of time deemed necessary.

(31 U.S.C. 9301, 9303)

**Subpart G—Construction, Equipment, and Security Requirements**

**§ 19.181 General.**

The proprietor of a distilled spirits plant must apply certain construction, equipment, and security standards at the plant. These standards are intended to ensure the protection of untaxed spirits at the plant and to ensure proper measurement and accountability for products on bonded premises. This subpart prescribes those standards.

(26 U.S.C. 5178)

**Tank Requirements**

**§ 19.182 Tanks—general requirements.**

The proprietor of a distilled spirits plant must ensure that all tanks on the premises used to hold spirits, denatured spirits, or wines are:

- (a) Used for the purpose listed on the application and plant registration;
- (b) Equipped with accurate means for measuring their contents. If the means for measurement is not a permanent fixture on the tank, the proprietor must equip the tank with a fixed device for measuring the contents. However, tanks having a capacity of less than 101 gallons are not required to have permanent gauge devices;
- (c) Accurately calibrated if used for any of the gauges described in this part. Further, if tanks or their gauging devices are moved in any manner subsequent to original calibration, the tanks shall not be used until recalibrated;
- (d) Accessible through walkways, landings, and stairs that permit access to all parts of the tank;
- (e) Equipped or situated so that they may be locked or secured; and
- (f) Constructed to prevent access to the spirits or wines through vents, flame arresters or other safety devices.

(26 U.S.C. 5006, 5204, 5505)

**§ 19.183 Scale tanks.**

(a) Except as otherwise provided in paragraph (b) of this section, if the proprietor uses a tank to determine the distilled spirits tax imposed by 26 U.S.C. 5001, the tank must be mounted

on scales and the contents of the tank must be determined by weight. The scale tank also must be equipped with a suitable device so that the volume of the contents can be quickly and accurately determined.

(b) The requirement to mount tanks on scales does not apply to tanks having a capacity of 55 gallons or less. Such tanks may be moved onto an accurately calibrated scale when a tax determination gauge needs to be made.

(26 U.S.C. 5006, 5204, 5505)

**§ 19.184 Scale tank minimum graduations.**

(a) The beams or dials on scale tanks used for tax determination must have minimum graduations not greater than the following:

Quantity to be weighed	Minimum graduation
Not exceeding 2,000 pounds .....	½ pound
Between 2,000 and 6,000 pounds.	1 pound
Between 6,000 and 20,000 pounds.	2 pounds
Between 20,000 and 50,000 pounds.	5 pounds
Over 50,000 pounds .....	10 pounds

(b) For scales having a capacity greater than 2,000 pounds, the minimum quantity which may be entered onto the weighing tank scale for gauging for tax determination will be the greater of:

- (1) 1,000 times the minimum graduation of the scale, or
  - (2) 5 percent of the total capacity of the weighing tank scale.
- (c) The weighing of lesser quantities for determination of tax may be authorized by the appropriate TTB officer where the beam of the scale is calibrated in ½ pound or 1 pound graduations and it is found by actual test that the scales are accurate at each graduation.

(d) Lots of spirits weighing 1,000 pounds or less shall be weighed on scales having ½ pound graduations.

(26 U.S.C. 5006, 5204, 5505)

**§ 19.185 Testing scale tanks for accuracy.**

(a) A proprietor who uses a scale tank for tax determination must ensure the accuracy of the scale through periodic testing. Testing of the scale must be conducted at least every 6 months and whenever the scale is adjusted or repaired.

(b) A proprietor also must test, at least once a month, the gallonage represented to be in a scale tank against the gallonage indicated by volumetric determination of the contents of the tank. However, if the scale is not used during a month, it is only necessary to

verify against the volumetric determination when the scale is next used. The proprietor must make the volumetric determination in accordance part 30 of this chapter. If the variation exceeds 0.5 percent of the quantity shown in the tank, the proprietor must take appropriate action to verify the accuracy of the scale.

(c) If the appropriate TTB officer determines that a scale may be inaccurate, the proprietor must test the accuracy of the scale.

(26 U.S.C. 5006, 5204, 5505)

**Package Scale and Pipeline Requirements**

**§ 19.186 Package scales.**

Proprietors must ensure that scales used to weigh packages are tested at least every 6 months and whenever they are adjusted or repaired. However, if a scale is not used during a 6-month period, it is only necessary to test the scale prior to its next use. Scales used to weigh packages that hold 10 wine gallons or less must indicate weight in ounces or hundredths of a pound.

(26 U.S.C. 5204)

**§ 19.187 Pipelines.**

All pipelines, including flexible hoses, that are used to transfer spirits, denatured spirits, articles, and wines must be constructed, arranged, and secured so as to ensure protection of the revenue and permit ready examination. The appropriate TTB officer may approve pipelines that cannot be readily examined if they pose no jeopardy to the revenue.

(26 U.S.C. 5178)

**Measuring and Proofing Equipment Requirements**

**§ 19.188 Measuring devices and proofing instruments.**

(a) *General.* A proprietor of a distilled spirits plant must have accurate instruments and equipment at the plant for determining the proof and volume of spirits.

(b) *Instruments.* The hydrometers and thermometers that a proprietor uses to gauge spirits must show subdivisions or graduations of proof and temperature as specified in part 30 of this chapter. Proprietors must frequently test their hydrometers and thermometers to ensure their accuracy. If an instrument appears to be in error, the proprietor may not use the instrument until it is tested and certified as accurate by the manufacturer or another qualified person.

(c) *Meters.* A proprietor may use an accurate mass flow meter to measure the

volume of bulk spirits. A mass flow meter used for tax determination of bulk spirits must be certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.1 percent. A mass flow meter used for all other required gauges of bulk spirits must be certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.5 percent. The proprietor must make corrections for the temperature of the spirits being measured in conjunction with the volumetric measurement of spirits by mass flow meter. The proprietor must also test mass flow meters at least every 6 months to ensure that they are accurate within the required tolerances.

(26 U.S.C. 5204)

#### Other Plant Requirements

##### § 19.189 Identification of structures, areas, apparatus, and equipment.

(a) *Buildings.* The proprietor must mark each building at a distilled spirits plant where spirits, denatured spirits, articles, wine, or distilling or fermenting materials are kept with a distinguishing number or letter.

(b) *Tanks.* The proprietor must mark each tank or receptacle for spirits, denatured spirits, or wine to show a unique serial number and capacity.

(c) *Stills.* The proprietor must number and mark to show the use of each still, fermenter, cooker, and yeast tank.

(d) *Other major equipment.* The proprietor must identify the use of all other major equipment used for processing or containing spirits, denatured spirits, wine, distilling or fermenting material, and all other tanks, unless the intended purpose is readily apparent.

(26 U.S.C. 5178)

##### § 19.190 Office facilities for TTB use.

(a) When required by the appropriate TTB officer, the proprietor must provide a secure cabinet equipped for locking for use by TTB.

(b) If one or more TTB officers are assigned to a distilled spirits plant to supervise operations on a continuing basis, the proprietor must provide a suitable office at the plant for the exclusive use of the TTB officers in performing their duties. The appropriate TTB officer will determine if the office facilities are suitable.

(26 U.S.C. 5178)

##### § 19.191 Signs.

The proprietor must place and keep a conspicuous sign on the outside of the place of business showing the name of

the proprietor and the business, or businesses, in which engaged.

(26 U.S.C. 5180)

##### § 19.192 Security.

(a) *General.* The proprietor of a distilled spirits plant must provide adequate security measures at the plant in order to protect the revenue.

(b) *Buildings.* The buildings, rooms, and partitions must be constructed of substantial materials. Doors, windows, or any other openings to the building must be secured or fastened during times when distilled spirits plant operations are not being conducted.

(c) *Outdoor tanks.* Outdoor tanks containing spirits, denatured spirits, or wine must be individually locked or locked within an enclosure when they are not in use.

(d) *Indoor tanks.* Indoor tanks containing spirits, denatured spirits, or wines, or the rooms or buildings in which such tanks are housed, must be equipped so that they may be secured.

(e) *Approved locks.* Locks meeting the specifications prescribed in paragraph (f) of this section must be used to secure:

(1) Outdoor tanks used to store spirits, or an enclosure around such tanks;

(2) Indoor tanks used to store spirits, or the door from which access may be gained from the outside to the rooms or buildings in which such tanks are housed; and

(3) Any doors from which access may be gained from the outside to rooms or buildings containing spirits stored in portable bulk containers.

(f) *Specifications for locks.* Locks meeting the specifications in this section or other locks that have been approved for use by the appropriate TTB officer are approved locks for the purpose of 26 U.S.C. 5682.

(1) *General.* The following are the specifications for approved locks:

(i) A corresponding serial number on the lock and on the key, except for master key locking systems;

(ii) A case hardened shackle at least one-fourth inch in diameter, with heel and toe locking;

(iii) A body width of at least 2 inches;

(iv) A captured key feature (the key may not be removed while the shackle is unlocked);

(v) A tumbler with at least 5 pins; and

(vi) A lock and key containing no biting data.

(2) *Other approved locks.* If the proprietor wishes to use locks of an unusual design, which do not meet the specifications in paragraph (f)(1) of this section, the proprietor must submit an example or prototype of the lock to the appropriate TTB officer, with a request

that the lock be approved for use. The appropriate TTB officer will evaluate the lock and determine whether the lock should be approved for use.

(3) *Master key systems.* Master key locking systems using approved locks may be used at the option of the proprietor.

(g) *Additional security.* Whenever the appropriate TTB officer finds that construction, arrangement, equipment, or protection is inadequate, additional security (such as fences, flood lights, alarm systems, and guard services) must be provided or changes in construction, arrangement, or equipment must be made to the extent necessary to protect the revenue.

(26 U.S.C. 5178, 5202)

##### § 19.193 Breaking Government locks.

TTB may assign TTB officers to a distilled spirits plant and utilize controls, such as Government locks, if TTB determines that such measures are necessary to effectively supervise operations at the plant. The proprietor may not remove such Government locks without the authorization of the appropriate TTB officer, except when a person or property is in imminent danger from a disaster or other emergency. If the proprietor must remove Government locks under such circumstances, the proprietor must ensure that security measures are taken to prevent illegal removal of spirits. In addition, the proprietor must notify the appropriate TTB officer as soon as possible of the action taken and within 5 days of removing the locks submit a written report describing the emergency and the action taken.

(26 U.S.C. 5202)

#### Subpart H—Dealer Registration and Recordkeeping

##### § 19.201 Definitions.

For purposes of this subpart, the following terms have the meanings indicated:

*Dealer.* A person that sells, or offers for sale, any alcohol product (distilled spirits, wines, and/or beer) fit for beverage use.

*Retail dealer in liquors.* A dealer that sells, or offers for sale, distilled spirits, wines, or beer to any person other than a dealer.

*Wholesale dealer in liquors.* A dealer that sells, or offers for sale, distilled spirits, wines, or beer to another dealer.

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

##### § 19.202 Dealer registration.

Every proprietor that sells or offers for sale any alcoholic product (distilled spirits, wines, or beer) fit for beverage

use must register as a dealer under part 31 of this chapter. However, the proprietor's application for registration of a distilled spirits plant filed under subpart D of this part, and approval of that application by the appropriate TTB officer, will constitute the proprietor's registration as a dealer at the distilled spirits plant. Every proprietor registered as a dealer under this subpart will be classified as a wholesale dealer in liquors (see § 31.32 of this chapter) and as such may also operate as a retail dealer in liquors without additional registration. Registration covers all sales from the same location, including sales of wine, beer, or other proprietors' spirits. A proprietor who conducts business as a dealer at a location other than the distilled spirits plant must register and keep records in accordance with part 31 of this chapter.

(26 U.S.C. 5124)

#### § 19.203 Amending the dealer registration.

Every proprietor registered as a dealer under this subpart must maintain a current and accurate distilled spirits plant registration. Whenever there is a change to any of the information provided in the proprietor's approved notice of registration, the proprietor must amend the registration within the time period specified in subpart E of this part. An amendment of the proprietor's distilled spirits plant registration will also serve as an amendment of the proprietor's dealer registration under this subpart. The proprietor's dealer registration will also terminate when distilled spirits plant operations under the notice of registration terminate.

(26 U.S.C. 5124)

#### § 19.204 Dealer records.

Every dealer is required to maintain records of transactions. Distilled spirits transactions that appear in the records required by subpart V of this part will meet the proprietor's recordkeeping requirements as a dealer. For other transactions not covered in the distilled spirits plant records, such as retail sales of wine or beer in a restaurant at the distilled spirits plant, or operations as a wholesale dealer in wine or beer, the proprietor must keep the records specified for dealers in part 31 of this chapter.

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

### Subpart I—Distilled Spirits Taxes

#### § 19.221 Scope.

This subpart covers the taxation of distilled spirits and the procedures for payment of taxes by proprietors of distilled spirits plants. Issues covered in

this subpart include tax rates, liability for tax, tax determination, return periods, filing of tax returns, forms of payment, electronic fund transfers, and credits under 26 U.S.C. 5010.

(26 U.S.C. 5001)

### Basic Provisions of Tax Law Affecting Spirits

#### § 19.222 Basic tax law provisions.

(a) *Distilled spirits tax.* 26 U.S.C. 5001 and 7652 impose a tax on all distilled spirits produced in, or imported into or brought into, the United States at the rate prescribed in section 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of a proof gallon. For the current rate of tax see 26 U.S.C. 5001.

(b) *Products containing distilled spirits.* All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, are considered and taxed as distilled spirits.

(c) *Wines with high alcohol content.* Wines containing more than 24 percent of alcohol by volume are taxed as distilled spirits.

(d) *Attachment of the tax.* Under 26 U.S.C. 5001(b), the tax attaches to distilled spirits as soon as the substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production, or by any subsequent process.

(e) *Alcohol tax is a lien on spirits.* Under 26 U.S.C. 5004, the tax becomes a first lien on the distilled spirits from the time the spirits come into existence as such. The conditions under which the first lien terminates are described in 26 U.S.C. 5004.

(f) *Tax credit for eligible wines and eligible flavors.* Under 26 U.S.C. 5010, a credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 on each proof gallon of alcohol derived from eligible wine, or from eligible flavors which do not exceed 2.5 percent of the finished product on a proof gallon basis is allowed at the time the tax is payable as if it constituted a reduction in the rate of tax.

(g) *Effective tax rates.* Where credit against the tax is desired, the proprietor liable for the tax must establish an effective tax rate in accordance with § 19.246. The effective tax rate established will be applied to each withdrawal or other taxable disposition of the distilled spirits.

(26 U.S.C. 5001, 5004, 5010, 7652)

#### § 19.223 Persons liable for tax.

(a) *Distilling.* Under 26 U.S.C. 5005, the distiller of spirits is liable for the tax and each proprietor or possessor of, and person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced. However, a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of that proprietor, is not liable by reason of the stock ownership or control. Persons transferring spirits in bond are relieved of tax liability if:

(1) The proprietors of transferring and receiving distilled spirits plant premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and

(2) No person liable for the tax on transferred spirits retains any interest in the spirits.

(b) *Storage on bonded premises.* Under 26 U.S.C. 5005(c) each person operating bonded premises will be liable for the tax on all spirits while the spirits are stored on the premises, and on all spirits that are in transit to the premises from the time of removal from the transferor's bonded premises, pursuant to an approved application. Liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until the liability for tax is relieved under the provisions of 26 U.S.C. 5008(a). Claims for relief from liability for spirits lost are covered in subpart J of this part. Voluntary destruction of spirits in bond is covered in subpart Q of this part.

(c) *Withdrawals without payment of tax.* Under 26 U.S.C. 5005(e), any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in 26 U.S.C. 5214, will be liable for the tax on the spirits from the time of withdrawal. The person will be relieved of any liability at the time the spirits are exported, deposited in a foreign trade zone, used in production of wine, deposited in a customs bonded warehouse, laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, or used for certain research, development or testing, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) of this section, are relieved of the liability on spirits withdrawn from bonded premises free of tax under this part, at the time the spirits are withdrawn.

(e) *Withdrawn from customs custody without payment of tax.* Under 26 U.S.C. 5232(a) when imported distilled spirits in bulk containers are withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the tax imposed on imported distilled spirits by 26 U.S.C. 5001, the person operating the bonded premises of the distilled spirits plant to which spirits are transferred will become liable for the tax on the spirits upon their release from customs custody, and the importer will thereupon be relieved of liability for the tax.

(26 U.S.C. 5005, 5066, 5232)

### Requirements for Gauging and Tax Determination

#### § 19.225 Requirement to gauge and tax determine spirits.

Before withdrawing distilled spirits from bond, the proprietor must gauge the spirits and determine the tax that is due on the spirits. This requirement applies to all spirits on which the tax will be either prepaid or deferred.

(26 U.S.C. 5006, 5204, 5213)

#### § 19.226 Gauges for tax determination.

There are several acceptable methods that a proprietor may use when gauging spirits for tax determination.

(a) *Cases.* If spirits are withdrawn from the bonded premises in cases, the proprietor must gauge the spirits based on the contents of the cases. The proprietor will determine the number of proof gallons of spirits in cases as provided in part 30 of this chapter. The proprietor must convert metric units of measure to U.S. units according to § 19.579.

(b) *Packages.* If spirits are withdrawn from the bonded premises in packages on the basis of an individual package gauge, each package must be gauged unless the tax is to be determined on the production or filling gauge. When gauging the packages, the proprietor must prepare a package gauge record as specified in § 19.619 and attach it to the record of tax determination that is required by § 19.611.

(c) *Tanks.* The proprietor must use weight, or an accurate mass flow meter and proof as prescribed in §§ 19.284 and 19.285, to gauge bulk spirits in tanks that are to be withdrawn on determination of tax. The proprietor must record the elements of the gauge on the record of tax determination. As an alternative, the proprietor may record gauge elements on a separate gauge record, and attach the gauge record to the record of tax determination.

(26 U.S.C. 5204, 5213)

#### § 19.227 Determination of the tax.

After gauging, the proprietor must determine the tax on the spirits to be removed from the bonded premises. The proprietor must use the tax rate prescribed in 26 U.S.C. 5001 to calculate the tax, unless the product is eligible for a reduced effective tax rate as provided in 26 U.S.C. 5010. If the product is eligible for a reduced effective tax rate, the proprietor may use that rate to determine the tax. The proprietor must record the results of each tax determination in a record of tax determination as required by § 19.611.

(26 U.S.C. 5213)

### Rules for Deferred Payment and Prepayment of Taxes

#### § 19.229 Deferred payment and prepayment of taxes.

There are two basic methods of paying the tax on distilled spirits withdrawn from bonded premises: Deferred payment and prepayment.

(a) *Deferred payment.* Under the deferred payment system, the proprietor may withdraw spirits from bond after tax determination but before payment of tax. The excise tax paid is based on the amount of spirits removed from bond during each return period. In order to pay taxes under the deferral system, the proprietor must file a withdrawal bond or unit bond. For detailed information regarding return periods and filing requirements under the deferred system, see §§ 19.234, 19.235 and 19.236.

(b) *Prepayment.* Under the prepayment system, the proprietor must pay the distilled spirits tax after tax determination but before withdrawal of the spirits from bonded premises. See § 19.230 for conditions that require prepayment of taxes.

(26 U.S.C. 5061)

#### § 19.230 Conditions requiring prepayment of taxes.

Under certain conditions, the proprietor must prepay the distilled spirits tax required, using TTB F 5000.24, Excise Tax Return, before removing spirits from the bonded premises. Those conditions are:

(a) When the proprietor has not given TTB a withdrawal bond or a unit bond;

(b) When the proprietor has posted a withdrawal or a unit bond, but has defaulted on any payment of tax under this section, and the tax payment remains in default. The proprietor must continue to prepay the tax until the appropriate TTB officer decides that allowing the proprietor to make deferred tax payments again will not jeopardize the revenue;

(c) When the proprietor receives a notice from the appropriate TTB officer that the tax must be prepaid. Such notice may be issued to the proprietor if—

(1) The proprietor fails to maintain records required by this part to substantiate the correctness of its tax returns; or

(2) The proprietor fails to comply with any other provision of this part; or

(d) When the proprietor's withdrawal bond, or the withdrawal coverage under its unit bond, is for less than the maximum penal sum. The proprietor must prepay the tax to the extent that a withdrawal would cause the outstanding tax liability to exceed the limits of coverage under the bond. See also § 19.231 if the bond is for less than the maximum penal sum.

(26 U.S.C. 5213, 5555)

#### § 19.231 Accounting for bond coverage.

When a proprietor furnishes a withdrawal bond or a unit bond to cover the tax on spirits withdrawn on determination of tax, and such bond is in less than the maximum penal sum, the proprietor must maintain an account for the bond to ensure that outstanding tax liabilities do not exceed the penal sum of the bond. The account must charge the bond for the amount of liability incurred on each withdrawal on determination of tax and, credit the bond for each payment of tax made with a return and for authorized credits taken on a return. If the balance of the bond account reaches zero, the proprietor may no longer defer tax payments for taxable withdrawals. Where the bond is for less than the maximum penal sum and has been allocated among two or more plants, the proprietor must maintain an account at each plant for that part of the penal sum allocated to each plant.

(26 U.S.C. 5173)

### Requirements for Filing Tax Returns

#### § 19.233 Filing prepayment returns.

When the proprietor is required to prepay the tax prior to withdrawal of spirits from the bonded premises, the proprietor must prepay the tax with a return on form TTB F 5000.24, Excise Tax Return, and include the remittance with the return. The proprietor may prepay tax for one or more withdrawals with a single prepayment return on TTB F 5000.24. The proprietor will note the serial number of the TTB F 5000.24, and the date and time of the prepayment on the individual record of tax determination. The proprietor may not remove spirits from the bonded premises until the tax has been paid.

(26 U.S.C. 5061)

**§ 19.234 Filing deferred payment returns.**

A proprietor must pay the tax on spirits withdrawn from bond for deferred payment of tax by filing a return on form TTB F 5000.24, Excise Tax Return. The proprietor must execute and file TTB F 5000.24 for each return period, even when no tax is due for a particular return period. The proprietor of each bonded premises must pay the full amount of distilled spirits tax determined for all spirits released for withdrawal from the bonded premises on determination of tax during the period covered by the return (except spirits on which tax has been prepaid).

(26 U.S.C. 5061)

**§ 19.235 Deferred payment return periods—quarterly and semimonthly.**

(a) *Two types of return periods.* The IRC provides for two different return periods for those taxpayers who pay their taxes on a deferred basis: Quarterly and semimonthly. Small taxpayers that meet certain criteria are eligible to use quarterly return periods and pay their taxes on a quarterly basis. Larger taxpayers must use semimonthly return periods and pay their taxes on a semimonthly basis.

(b) *Quarterly return period.* Effective January 1, 2006, a taxpayer that reasonably expects to be liable for not more than \$50,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year, and that was liable for not more than \$50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs. The following additional rules apply to the quarterly return period procedure under this section:

(1) A taxpayer with multiple locations must combine the distilled spirits tax liability for all locations to determine eligibility for the quarterly return procedure;

(2) A taxpayer that has both domestic operations and import transactions must combine the distilled spirits tax liability on the domestic operations and the imports to determine eligibility for the quarterly return procedure;

(3) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the quarterly return procedure. However, a taxpayer that is eligible for the quarterly return procedure, and that is a member of a controlled group that owes \$5 million or more in distilled spirits excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Quarterly payments via EFT must be transmitted in accordance with section 5061(e);

(4) A new taxpayer is eligible to file quarterly returns in the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$50,000 in distilled spirits taxes during that calendar year; and

(5) If a taxpayer filing quarterly exceeds \$50,000 in tax liability during a taxable year and therefore must revert to the semimonthly return procedure, that taxpayer may resume quarterly payments only after a full calendar year has passed during which the taxpayer's liability did not exceed \$50,000.

(c) *Semimonthly return period.* Except in the case of a taxpayer that qualifies for, and chooses to use, quarterly return periods as provided in paragraph (b) of this section, all other taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods will run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in § 19.237.

(d) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means that there is no existing or anticipated circumstances known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit.

*Taxpayer.* A taxpayer is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number (EIN) as defined in 26 CFR 301.7702.12.

(26 U.S.C. 5061)

**§ 19.236 Due dates for returns.**

(a) *Semimonthly returns.* Except when payment is pursuant to a quarterly return as provided in paragraph (b) of this section, where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, the proprietor must file a semimonthly tax return covering such spirits on form

TTB F 5000.24, Excise Tax Return, and remittance, as required by § 19.238, § 19.239 or § 19.240, not later than the 14th day after the last day of the return period, except for returns filed for September as provided in § 19.237. If the due date falls on a Saturday, Sunday, or legal holiday, the return and payment are due on the immediately preceding day that is not a Saturday, Sunday, or legal holiday, except as provided in § 19.237(c).

(b) *Quarterly returns.* Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, and the proprietor uses quarterly return periods as provided in § 19.235(b), the proprietor must file a quarterly return covering such spirits on TTB F 5000.24, and remittance, as required by § 19.238, § 19.239, or § 19.240, not later than the 14th day after the last day of the quarterly return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance will be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(26 U.S.C. 5061)

**§ 19.237 Special rule for semimonthly filers for the month of September.**

(a) *Returns required for September.* If the proprietor is required to file semimonthly returns as provided in § 19.235(c), there are three return periods during the month of September. The first semimonthly return period is from the 1st day through the 15th day of the month and the return with remittance is due by the 29th of September. The second semimonthly return period for the month of September is divided into two payment periods. The exact dates of these periods depend upon whether the proprietor remits tax payments by EFT.

(1) *Taxpayments by EFT.* If the proprietor remits tax payments by EFT, the two payment periods for the second half of September are from the 16th through the 26th, and from the 27th through the 30th. The return on form TTB F 5000.24 and remittance for the period September 16–26 is due on or before September 29. The return on TTB F 5000.24 and remittance for the period September 27–30 is due no later than October 14.

(2) *Taxpayment other than by EFT.* If the proprietor is not required to pay the distilled spirits tax by EFT, the two payment periods for the second half of September are from the 16th through the 25th and from the 26th through the 30th. The return on TTB F 5000.24 and remittance for the period September 16–25 is due on or before September 28.



The return on TTB F5000.24 and remittance for the period September 26–30 is due no later than October 14.

(b) *Amount of payment: Safe harbor rule.* (1) *EFT Taxpayers.* The proprietor satisfies the requirements of paragraph (a)(1) of this section if by September 29 the amount paid is at least eleven-fifteenths (73.3 percent) of the tax liability incurred in the semimonthly return period for September 1–15, and the proprietor also pays any underpayment of tax resulting from the use of the safe harbor rule on or before October 14.

(2) *Other than EFT taxpayers.* The proprietor satisfies the requirements of paragraph (a)(2) of this section if the amount paid by September 28 is at least two-thirds (66.7 percent) of the tax liability incurred in the semimonthly return period for September 1–15, and the proprietor also pays any underpayment of tax resulting from the use of the safe harbor rule on or before October 14.

(c) *Weekends and holidays.* If the required tax payment due date for the return period September 16–25 (non-EFT taxpayers) or September 16–26 (EFT taxpayers), falls on a Saturday or legal holiday, the proprietor's return and remittance are due on the immediately preceding day. If the required tax payment due date falls on a Sunday, the proprietor's return and payment are due on the immediately following day.

(d)

*Example. Payment of tax for the month of September:* (1) *Facts.* X, a proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of \$45,000, and for the period September 27–30, X incurred tax liability in the amount of \$2,000.

(2) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semimonthly period of September is due no later than September 29. X's payment of tax for the period September 16–26 is also due no later than September 29. X may use the safe harbor rule to determine the amount of payment due for the period of September 16–26. Under the safe harbor rule, X's payment of tax must equal \$22,000.00, eleven-fifteenths of the tax liability incurred during the first semimonthly period of September. Additionally, X's payment of tax in the amount of \$2,000 for the period September 27–30 must be paid no later than October 14. X must also pay the underpayment of tax, \$23,000.00, for the period September 16–26, no later than October 14.

(26 U.S.C. 5061)

#### § 19.238 Payment by mail or courier.

(a) *Payment by mail.* The proprietor must file each return on form TTBF 5000.24 in accordance with the instructions printed on the form. If the proprietor submits the return by U.S. mail, the official postmark of the U.S. Postal Service stamped on the cover in which the return is mailed will be considered to be the date of delivery of the return and also the remittance, if included. If the postmark on the cover is illegible, the proprietor will bear the burden of proving when the postmark was made. If the proprietor sends the return with or without remittance by registered mail or certified mail, the date of registry, or the date of the postmark on the sender's postal receipt for certified mail, will be treated as the date of delivery of the return and also of the remittance, if included.

(b) *Payment by courier or other private delivery service.* A proprietor may send a return, with or without remittance, by courier or other private delivery service. If the proprietor sends the return with or without remittance with a courier or private delivery service that is available to the general public and that is at least as timely and reliable as the U.S. mail, and the delivery service has tracking and tracing procedures for its deliveries, TTB will consider the date of tender to the delivery service as recorded in the tracking and tracing record for the parcel as the date of delivery. If the proprietor sends the return, with or without remittance, by courier or other private delivery service that does not meet the above requirements, the actual date of delivery to TTB will be treated as the date of delivery of the return and also of the remittance, if included.

(26 U.S.C. 6302)

#### § 19.239 Form of payment.

(a) *General.* The proprietor must pay the tax due on spirits when filing a return on form TTB F 5000.24, Excise Tax Return. The remittance for the tax must accompany the return and may be in any form that is authorized by § 70.61 of this chapter and acceptable to the appropriate TTB officer. Exception: This does not apply to payments that must be made by EFT. For EFT payments see § 19.240.

(b) *Consequences of default.* If a check or money order tendered in payment of taxes is not paid on presentment, or if the taxpayer is otherwise in default in payment, then any remittance made during the period of default must be either in cash or by an acceptable certified instrument. The proprietor must continue to pay in cash or by

certified instrument as long as the proprietor remains in default, and until the appropriate TTB officer finds that accepting a check will not jeopardize the revenue.

(c) *Certified instruments.* Acceptable certified instruments include certified checks, cashier's checks or treasurer's checks drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory or possession of the United States, or a money order, as provided in § 70.61 of this chapter.

(d) *Payment of taxes.* The proprietor must make checks or money orders payable to "Alcohol and Tobacco Tax and Trade Bureau".

(26 U.S.C. 5061, 6311)

#### § 19.240 Payment of tax by electronic fund transfer.

(a) *General.* (1) *Criteria requiring ETF payment.* Under certain conditions, a proprietor may not make payments by cash, check, or money order. Instead, the proprietor must use the services of a commercial bank to pay tax on distilled spirits tax by EFT. Payments must be made by EFT in the current calendar year if the proprietor, as a taxpayer, was liable for \$5 million or more in taxes on distilled spirits during the prior calendar year. For the purpose of determining whether the proprietor is subject to this requirement, the proprietor must use the total amount of tax liability on distilled spirits incurred under this part and parts 26 and 27 of this chapter (gross tax liability). Gross tax liability includes the distilled spirits tax on all taxable withdrawals of spirits and taxable importations of spirits, as well as tax on spirits brought into the United States from Puerto Rico and the Virgin Islands during the calendar year. This figure includes taxes incurred at any and all premises at which the proprietor conducts regulated activities. The proprietor may not net out or adjust for any drawback, credits or refunds of tax that are allowed. Overpayments made in excess of actual tax liability will not be included in the gross tax liability figure.

(2) *Controlled group.* If the taxpayer is a member of a controlled group, the controlled group is treated as a single taxpayer when calculating liability of \$5 million or more in distilled spirits taxes during the prior calendar year. A controlled group is a related group of taxpayers and is defined in subpart D of part 70 of this chapter.

(3) *Separate return and payment for each DSP.* When the proprietor makes payments by EFT, the proprietor must file a separate return on form TTB F 5000.24 and make a separate EFT

payment for each DSP from which spirits are withdrawn upon determination of tax.

(b) *Requirements*—(1) *Notice to TTB*. If the proprietor's gross distilled spirits tax liability is \$5 million or more in one calendar year, the proprietor must notify the appropriate TTB officer of this fact not later than January 10 of the following year. The proprietor must use the total amount of tax liability incurred under this part and parts 26 and 27 of this chapter to determine whether it must make this notification. Exception: this notice requirement does not apply if the proprietor already pays tax on distilled spirits by EFT. The notice shall be an agreement to make payments by EFT.

(2) *Separate EFT for each return*. For each return filed in accordance with this part, the proprietor will direct the bank to make an EFT to the Treasury Account for the amount of the tax reported due on the return. The proprietor must give instructions to the bank early enough for the EFT to be made to the Treasury Account by no later than close of business on the last day for filing the return as prescribed in §§ 19.236 or 19.237, as appropriate.

(3) *Discontinuing EFT payments*. If the proprietor pays tax by EFT and has a gross tax liability of less than \$5 million in distilled spirits taxes during a calendar year, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, payment by EFT will be optional in the following year. The proprietor may continue to remit tax payment by EFT as provided in this section, or the proprietor may remit tax payment using any acceptable method as set forth in § 19.239. If the proprietor decides to stop paying tax by EFT, the proprietor must give the appropriate TTB officer written notice of that decision. The proprietor must attach a written notice to the first return on form TTB F 5000.24 filed using a method of payment other than EFT. Such notice must state that tax is not due by EFT because the proprietor's tax liability during the preceding calendar year was less than \$5 million. The proprietor must further state that future tax payments will be filed with the returns on TTB F 5000.24.

(c) *Remittance*—(1) *Identifying EFT payments*. When the proprietor completes the return on TTB F 5000.24, the proprietor must indicate on the form that the tax was paid by EFT. The proprietor must file the completed TTB F 5000.24 with TTB as directed by the instructions on the form.

(2) *Credit for payment*. TTB will credit the proprietor as having made a tax payment when the Treasury

Account receives the EFT. TTB considers the EFT to be received by the Treasury Account when the EFT is paid to a Federal Reserve Bank.

(3) *Record of payment*. When a proprietor directs a bank to make an EFT as required by paragraph (b)(2) of this section, any transfer data record furnished to the proprietor as part of normal banking procedures will serve as the record of payment. The proprietor will retain this document as part of the required records.

(d) *Failure to make a tax payment by EFT*. The proprietor will be subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656 for failure to make a required EFT tax payment before close of business on the last day for filing.

(e) *Procedure*. Upon receipt of a notice filed pursuant to paragraph (b)(1) of this section, the appropriate TTB officer will provide the proprietor with a copy of the TTB Procedure entitled "Payment of Tax by Electronic Fund Transfer". This publication outlines the procedure that the proprietor must follow when preparing returns and payments by EFT as required by this part. The proprietor must follow instructions provided by Customs and Border Protection (CBP) for submitting the EFT payments that must be made to CBP.

(26 U.S.C. 5061, 6302)

#### **Requirements for Employer Identification Numbers**

##### **§ 19.242 Employer identification number.**

The proprietor must enter the employer identification number (EIN) assigned to it by the Internal Revenue Service on each form TTB F 5000.24, Excise Tax Return, filed with TTB. Failure to enter the assigned EIN on TTB F 5000.24, may result in a \$50.00 penalty for each occurrence as specified in § 70.113 of this chapter.

(26 U.S.C. 6109, 6723)

##### **§ 19.243 Application for employer identification number.**

(a) *Use Form SS-4*. The proprietor must obtain an employer identification number (EIN) by filing an application with the Internal Revenue Service (IRS) on Form SS-4. Form SS-4 is available from Internal Revenue Service Centers, from IRS District Directors, the IRS Web site at <http://www.irs.gov>, or from TTB's National Revenue Center. The proprietor may file this form with IRS by mail, telephone, or fax by following the instructions on the form.

(b) *Time limit*. If the proprietor has not already received, or applied for, an EIN at the time that the first return on form TTB F 5000.24, Excise Tax Return,

is filed, the proprietor must file such application for an EIN not later than seven days from the date of filing the TTB F 5000.24.

(c) *One EIN only*. Each proprietor must obtain and use only one EIN, regardless of the number of places of business for which the proprietor is required to file a tax return under this subpart.

(26 U.S.C. 6109)

#### **Effective Tax Rates**

##### **§ 19.245 Tax credits under 26 U.S.C. 5010.**

(a) *The distilled spirits tax*. Sections 5001 and 7652 of the IRC impose a tax on all distilled spirits produced in, or imported into, or brought into the United States at the rate prescribed in section 5001 of the IRC.

(b) *Tax credits*. Section 5010 of the IRC provides a credit for the wine and flavors content in distilled spirits products. These credits effectively reduce the rate of excise tax paid on distilled spirits products that contain eligible wines and eligible flavors. As a result, the alcohol derived from eligible wine is taxed at the rates specified for wine in 26 U.S.C. 5041, and the alcohol derived from eligible flavors is not taxed to the extent that it does not exceed 2.5 percent of the alcohol in the product. This results in an effective tax rate on the distilled spirits product that is lower than the rate prescribed in 26 U.S.C. 5001.

(c) *Eligible wine and eligible flavor*. The credit for the wine and flavor content of a distilled spirits product is allowable only if the wine or flavor contained in the product is an "eligible wine" or an "eligible flavor". To determine whether a wine or flavor is eligible, refer to the definitions in § 19.1 and 26 U.S.C. 5010.

(d) *Application of effective tax rates*. Section 19.246 describes how the proprietor should compute the effective tax rate for each distilled spirits product containing eligible wine or eligible flavor. Sections 19.247 through 19.250 set forth several different methods that the proprietor may use in applying the effective tax rates to taxable removals of products from the proprietor's bonded premises.

(26 U.S.C. 5010)

##### **§ 19.246 Computing the effective tax rate for a product.**

(a) *How to compute effective tax rates*. In order to determine the effective tax rate for a distilled spirits product containing eligible wine or eligible flavor, the proprietor must first determine the total excise taxes due on the product from all sources including

distilled spirits, eligible wine, and alcohol from eligible flavors in excess of 2.5 percent of the total proof gallons in the product. Then, the proprietor must determine the total number of proof gallons of alcohol in the product regardless of the source. By dividing the total tax (numerator) by the total number of proof gallons (denominator) the proprietor will arrive at the effective tax rate for the product in dollars per proof gallon. The proprietor will compute the effective tax rate according to the following formula:

(1) *Numerator*. 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), that would be imposed on the wine but for its removal

to bonded premises. Three different tax classes of wine are eligible for the tax credit. The proprietor will have to repeat this step for each different tax class of eligible wine used; 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 2.5 percent of the denominator prescribed in paragraph (a)(2) of this section.

(2) *Denominator*. 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) *Rounding numbers*—(1) *Proof gallons*. When determining the effective tax rate, the proprietor must express quantities of distilled spirits, eligible

wine, and eligible flavors to the nearest tenth of a proof gallon.

(2) *Tax rates*. The proprietor may round the effective tax rate to as many decimal places as the proprietor deems appropriate, provided that the rate is expressed no less exactly than the rate rounded to the nearest whole cent. The proprietor must be consistent and round the effective tax rates for all products to the same number of decimal places. When rounding, if the number to the right of the last decimal place to be kept is less than five, it will be dropped, if it is five or over, a unit will be added.

(c) *Example*. 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.

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

$$\frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6}$$

$$\frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

(26 U.S.C. 5010)

**§ 19.247 Use of effective (actual) tax rates.**

(a) *Select method of applying tax rate*. The proprietor may choose to apply an effective tax rate to taxable removals of distilled spirits products in accordance with § 19.248, § 19.249, or § 19.250. Any proprietor who does not elect one of these options must establish an effective tax rate for each batch of distilled spirits product on which a claim for tax credit for alcohol derived from eligible wine or eligible flavor will be made. The proprietor must compute the effective tax rates for these products in accordance with the instructions in § 19.246.

(b) *Record tax rates used*. The proprietor must record the effective tax rate used on the dump or batch records for the products as required by § 19.598. The proprietor must record the serial numbers of cases of product removed at each rate on the record of tax determination or other related record. The proprietor must keep these records available for inspection by TTB officers.

(26 U.S.C. 5010, 5207)

**§ 19.248 Standard effective tax rate.**

(a) *Establishing a standard effective tax rate for a product*. The proprietor may establish a permanent standard effective tax rate for any eligible

distilled spirits product, rather than calculate a separate effective tax rate for each batch of product made. If the proprietor elects to use this option, the proprietor must determine the permanent standard effective tax rate based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used to manufacture the product. Thus, the permanent standard effective tax rate is the highest tax rate that would apply to the product because it is based on a batch with the least amount of alcohol from eligible wine and flavors that qualify for the credit under 26 U.S.C. 5010. By using this method the proprietor forgoes the

<sup>1</sup> Proof gallons by which distilled spirits derived from eligible flavors exceed 2.5% of the total proof

gallons in the batch (100.9 - (2.5% × 3,371.8) = 16.6).

possible use of a lower tax rate in exchange for the convenience of using a permanent standard effective tax rate that does not have to be recomputed for each batch of product made. The proprietor must keep a permanent record of the standard effective tax rates established for each product, in accordance with § 19.615.

(b) *Batches subject to a higher tax rate.* Whenever the proprietor manufactures a batch of the product with a lesser quantity or lower alcohol content of eligible wine or eligible flavor, this will result in a higher tax rate on the product since the product will have less alcohol qualifying for the credit under 26 U.S.C. 5010 and a higher percentage of alcohol taxable at the rate published in 26 U.S.C. 5001. In such instances, the proprietor must keep the cased goods segregated from other completed cases of the same product subject to the permanent standard effective tax rate for that product. The proprietor must determine the tax rate for the nonstandard batch in accordance with § 19.247.

(c) *TTB review of standard tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### § 19.249 Average effective tax rate.

(a) *Establishing an average tax rate.* The proprietor may establish an average effective tax rate for any eligible distilled spirits product based on the total proof gallons in all batches of the same composition which have been produced during the preceding 6-month period and which have been or will be bottled or packaged, in whole or in part, for domestic consumption. At the beginning of each month, the proprietor must recompute the average effective tax rate so as to include only the immediately preceding 6-month period. The proprietor must show the average tax rate established for a product in the record of average effective tax rates as prescribed in § 19.613.

(b) *TTB review of average effective tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### § 19.250 Inventory reserve account.

(a) The proprietor may establish an inventory reserve account for any

eligible distilled spirits product by maintaining an inventory reserve record as prescribed by § 19.614. The effective tax rate applied to each removal or other disposition will be the effective tax rate recorded on the inventory reserve record from which the removal or other disposition is depleted. With an inventory reserve account, the proprietor will tax pay removals on a first-in first-out basis regardless of which lot of product is actually removed.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### Assessment of Taxes by TTB

##### § 19.253 Assessment of tax on spirits not accounted for or reported.

The proprietor is required by law to properly account for and report all spirits that it produces. TTB will assess the proprietor for the tax on the difference between the quantity reported and the quantity actually produced.

(26 U.S.C. 5006)

##### § 19.254 Assessment of tax for losses or unauthorized removals.

(a) *Lost or destroyed in bond.* TTB will assess the proprietor for the tax on spirits, denatured spirits, or wines in bond that are lost or destroyed if:

(1) The proprietor is liable for the tax on spirits, denatured spirits, or wines in bond, and the proprietor fails to file a claim for remission of the tax on spirits, denatured spirits, or wines that are lost or destroyed in bond as provided in § 19.263(a), or

(2) The proprietor files a claim for such loss or destruction but the claim is denied. Exception: The provisions of this section do not apply to spirits, denatured spirits, or wines on which the tax is not collectable due to the provisions of 26 U.S.C. 5008(a) or (d), or 26 U.S.C. 5370, as applicable.

(b) *Unauthorized removal from bond.* (1) TTB will assess the proprietor for the tax on any spirits, denatured spirits, or wines in bond that are removed from bonded premises other than as authorized by law.

(2) TTB will assess the proprietor for tax on spirits or denatured spirits lost from casks or other packages as described in 26 U.S.C. 5006(b) if the proprietor does not pay the tax upon demand by the appropriate TTB officer.

(26 U.S.C. 5006, 5008, 5370)

#### Additional Tax Provisions

##### § 19.256 Tax on wine.

(a) *Imposition of tax.* All wine (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into or brought into the United States is subject to tax pursuant to 26 U.S.C. 5041 or 7652. The proprietor may be liable for wine taxes under 26 U.S.C. 5362(b)(3) for wine that is transferred in bond to the proprietor's distilled spirits plant. The proprietor may not remove wine from the bonded premises of a distilled spirits plant for consumption or sale as wine. (See 26 U.S.C. 5362.)

(b) *Liability for tax.* Except as otherwise provided by law, the proprietor is liable for the tax on wine transferred in bond to the proprietor's distilled spirits plant from a bonded wine cellar or from another distilled spirits plant until the proprietor uses the wine in the manufacture of a distilled spirits product or properly disposes of the wine as provided elsewhere in this part.

(26 U.S.C. 5041, 5362, 7652)

##### § 19.257 Imported spirits.

The proprietor will incur a tax liability greater than the internal revenue tax imposed by 26 U.S.C. 5001(a)(1), if spirits originally imported for nonbeverage purposes are transferred from customs custody to TTB bonded premises pursuant to 26 U.S.C. 5232, and the proprietor subsequently decides to withdraw the spirits for beverage purposes. If the spirits would have been subject to a higher duty had they been imported for beverage purpose, the proprietor must pay a tax equal to the difference between the higher duty and the duty actually paid. Proprietors will refer to this additional tax as "additional tax—less duty" and pay it at the same time and in the same manner as the distilled spirits excise tax. Proprietors must compute the amount of "additional tax—less duty" owed by applying this rate to the total quantity of proof gallons withdrawn. The proprietor must make a separate entry on the tax return labeled "additional tax—less duty" and show the amount of tax due.

(26 U.S.C. 5001)

##### § 19.258 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(8), on imported spirits withdrawn from customs custody without payment of tax and later withdrawn from bonded premises for beverage purposes, and the related provisions of § 19.257, are not

applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

(26 U.S.C. 5201)

### Subpart J—Claims

#### § 19.261 Scope.

This subpart covers the various types of claims that a proprietor may file and includes provisions regarding the following:

- (a) General requirements for filing claims;
- (b) Specific requirements for filing certain types of claims; and
- (c) Remission, abatement, credit and refund of tax.

(26 U.S.C. 5008, 5215, 6065)

#### Requirements for Filing Claims

##### § 19.262 General requirements for filing claims.

(a) A proprietor must file all claims for abatement, remission, credit, or refund under this part on form TTB F 5620.8, Claim—Alcohol and Tobacco Tax and Trade Bureau Taxes. The claim must:

- (1) Be filed with TTB's National Revenue Center;
- (2) Show the name, address, and capacity of the claimant;
- (3) Be signed by the claimant or by the claimant's duly authorized agent under penalties of perjury as provided in § 19.45; and
- (4) Include any supporting documents required by this part. The supporting documents will be considered a part of the claim.

(b) The appropriate TTB officer may require that the claimant submit additional evidence or documentation to further support the legitimacy or accuracy of the claim.

(26 U.S.C. 5008, 5215, 6065)

##### § 19.263 Claims on spirits, denatured spirits, articles, or wines lost or destroyed in bond—specific requirements.

(a) *Claims for remission.* A claim for remission of tax liability relating to the destruction or loss of spirits, denatured spirits, articles, or wines in bond must include the following information:

(1) *Identity of containers.* Identification of the containers, by serial number if they were numbered, and location of the containers from which the spirits, denatured spirits, articles, or wines were lost, or in which they were removed for destruction;

(2) *Quantity of spirits.* The quantity of spirits, denatured spirits, articles, or wines lost or destroyed from each

container, and the total quantity of spirits or wines covered by the claim;

(3) *Amount of claim.* The total amount of tax for which the claim is filed;

(4) *Identity of distilled spirits plant.* The name, number, and address of the distilled spirits plant from which withdrawn without payment of tax or removed for transfer in bond, if the claim involves spirits so withdrawn or removed or if the claim involves wines transferred in bond, and the date and purpose of such withdrawal or removal. In the case of imported spirits lost or destroyed while being transferred from customs custody to TTB bond as provided in § 19.409, the name of the customs bonded warehouse, if any, and port of entry will be included instead of the plant name, number, and address;

(5) *Date and cause.* The date of the loss or destruction: If the date is not known, enter the date the loss or destruction was discovered. Include the cause of the loss together with relevant facts and details;

(6) *Carrier.* The name of the carrier if the loss occurred while the spirits were in transit;

(7) *Consignee.* The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development, or testing;

(8) *Theft.* If lost by theft, the facts establishing that the loss did not occur as the result of any negligence, connivance, collusion, or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them; and

(9) *Insurance.* In the case of a loss by theft, whether the claimant is indemnified or recompensed for the spirits or wines lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wines, less the tax.

(b) *Claims for abatement, credit or refund.* If a proprietor files a claim for abatement of an assessment, or for credit or refund of tax that has been paid or determined, for spirits, denatured spirits, articles, or wines lost or destroyed in bond, the claim must include all of the applicable information described in paragraph (a) of this section as well as the following:

(1) The date of assessment or payment of the tax for which abatement, credit or refund is claimed. If the tax has not been assessed or paid, give the date of the tax determination; and

(2) The name, plant number and address of the plant where the tax was determined, assessed or paid. If the tax was assessed against, or paid by,

someone other than the proprietor, then give the name, address and capacity of the person who was assessed or paid the tax.

(c) *Supporting documents—*

(1) *General.* If possible, the proprietor should support the information and details on all claims filed under this section with affidavits by persons having personal knowledge of the circumstances of the loss or destruction.

(2) *Losses in transit.* For claims on spirits, denatured spirits, articles, or wines lost while being transferred by a carrier, the claim must be supported by a copy of the bill of lading.

(3) *Spirits withdrawn without payment of tax.* If the lost spirits were withdrawn without payment of tax for research, development, or testing, the claim must be supported by a copy of the proprietor's sample record prescribed in subpart V of this part.

(26 U.S.C. 5008, 5370)

##### § 19.264 Claims on spirits returned to bonded premises—specific requirements.

(a) *General.* Section 5215(a) of the IRC allows for the return of tax paid or tax determined spirits to the bonded premises of a distilled spirits plant under certain conditions. In addition, section 5008(c) of the IRC allows a proprietor to file a claim for credit or refund of tax on the spirits returned to bonded premises under section 5215(a). For information on allowable returns see subpart Q of this part.

(b) *Claims for credit or refund.* A claim for credit or refund of tax on spirits returned to bonded premises under section 5215(a) must include the following information:

- (1) Quantity of spirits so returned;
- (2) Amount of tax for which the claim is filed;

(3) Name, address, and plant number of the plant to which the spirits were returned and the date of the return;

(4) The purpose for which the spirits were returned; and

(5) The serial number of the gauge record for the returned spirits.

(c) *Puerto Rican and Virgin Islands spirits and imported rum.* If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim must show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and

(2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or

Virgin Islands spirits, or on the rum imported from any other area, contained in the product.

(d) *Products subject to 26 U.S.C. 5010 tax credits.* A claim for credit or refund of tax on spirits containing eligible wine or eligible flavors must include the date and serial number of the record of tax determination and the effective tax rate at which the tax was paid or determined. If this information is not provided, the amount of tax claimed will be based on the lowest effective tax rate applied to the product.

(e) *Limits on claims.* Claims for credit or refund of tax must be filed by the proprietor of the plant to which the spirits were returned. The claim must be filed within six months of the date of the return. No interest is allowed on any claims for refund or credit.

(26 U.S.C. 5008, 5215)

**§ 19.265 Claims relating to spirits lost after tax determination.**

Claims for abatement, credit, or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, will be prepared and filed in accordance with the regulations in § 19.263(b) and (c).

(26 U.S.C. 5008)

**Rules Regarding Credits, Abatement, Remission, or Refund**

**§ 19.266 Claims for credit of tax.**

A proprietor may file a claim for credit of tax, as provided in this part, after the tax has been determined, whether or not the tax has been paid. However, a proprietor may not anticipate allowance of a credit or make an adjusting entry in a tax return pending action on the claim.

(26 U.S.C. 5008, 5215)

**§ 19.267 Adjustments for credited tax.**

When a proprietor receives a notice of allowance of credit from TTB, including notification of credit for tax on spirits exported with benefit of drawback as provided in part 28 of this chapter, the proprietor will make an adjusting entry and an explanatory statement on its next excise tax return. The proprietor will identify the notification of allowance of credit that authorizes the adjusting entry in the explanatory statement. If the allowable tax credit is greater than the tax due on the excise tax return, the proprietor will apply the balance of the tax credit to one or more following tax returns until the tax credit is exhausted.

(26 U.S.C. 5008, 5062)

**§ 19.268 Allowance of remission, abatement, credit, or refund of tax.**

The appropriate TTB officer is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

(26 U.S.C. 5008)

**Rules for Puerto Rican and Virgin Islands Spirits**

**§ 19.269 Puerto Rican and Virgin Islands spirits.**

(a) The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit, or refund for loss or destruction of distilled spirits, also apply to spirits brought into the United States from Puerto Rico or the Virgin Islands with respect to the following:

- (1) Spirits lost while in TTB bond;
- (2) Voluntary destruction of spirits in bond;
- (3) Spirits returned to bonded premises after withdrawal without payment of tax; and
- (4) Spirits returned to bonded premises after withdrawal upon tax determination.

(b) In addition to the information required by § 19.263, claims relating to spirits lost in bond must show the name of the producer and the serial number and date of the formula under which produced, if any.

(26 U.S.C. 5008, 5215)

**Subpart K—Gauging**

**§ 19.281 Scope.**

This subpart covers gauging, which is the determination of the quantity and the proof of distilled spirits. Topics covered in this subpart include: The general requirements for gauging; when gauges are required at distilled spirits plants; and special rules that apply to the gauges performed at distilled spirits plants. For additional requirements and procedures governing gauging, see part 30 of this chapter, Gauging Manual.

**§ 19.282 General requirements for gauging and measuring equipment.**

A proprietor is required to perform periodic gauges of the spirits, wines, and alcoholic flavorings at the plant. A proprietor must have accurate and readily usable gauging and measuring equipment as required by this part and part 30 of this chapter. At any time, TTB may require that the proprietor's gauges be performed in the presence of, and be verified by, a TTB officer. In addition, TTB may disapprove the use of any equipment, or the proprietor's means of gauging, if TTB finds that it is not sufficiently accurate or suitable for the gauges and measurements to be made.

(26 U.S.C. 5006, 5204)

**Required Gauges**

**§ 19.283 When gauges are required.**

The proprietor must gauge spirits, wine, and alcoholic flavoring materials when required to do so by the appropriate TTB officer or when the spirits, wine, or flavoring materials are:

- (a) Produced and entered for deposit;
- (b) Filled into packages from storage tanks;
- (c) Transferred or received in bond;
- (d) Transferred between operational accounts;
- (e) Mixed in the manufacture of a distilled spirits product;
- (f) Mingled under § 19.329;
- (g) Reduced in proof before bottling;
- (h) Voluntarily destroyed;
- (i) Removed or withdrawn from bond;
- (j) Tax determined;
- (k) Returned to bond; or
- (l) Denatured.

(26 U.S.C. 5204, 5559)

**Rules for Gauging**

**§ 19.284 Quantity determination of bulk spirits.**

(a) *Gauge of spirits in packages.* When determining the quantity of bulk spirits in packages, the proprietor must determine the quantity by weight as provided in part 30 of this chapter.

(b) *Bulk gauge for tax determination.* When determining the quantity of bulk spirits for determination of tax or when performing a production gauge that will be used for tax determination, the proprietor must determine the quantity by weight as provided in part 30 of this chapter or by an accurate mass flow meter. For tax determination purposes, an accurate mass flow meter is a mass flow meter that has been certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.1 percent.

(c) *Volumetric determination.* Except as provided in paragraphs (a) and (b) of this section, in all other instances when the proprietor is required to gauge bulk spirits in bond, the proprietor may determine the quantity by either weight or volume. When the proprietor determines the quantity by volume, the proprietor must measure the spirits by using:

- (1) A tank or bulk conveyance for which a calibration chart is provided, with the calibration charts certified as accurate by persons qualified to calibrate tanks or bulk conveyances; or
- (2) An accurate mass flow meter. For purposes of this paragraph, an accurate mass flow meter is a mass flow meter that has been certified by the manufacturer or other qualified person

as accurate within a tolerance of plus or minus 0.5 percent; or

(3) Another device or method approved by the appropriate TTB officer.

(26 U.S.C. 5559)

**§ 19.285 Proof determination of distilled spirits.**

(a) *Proof.* Except as provided in paragraph (b) of this section, when the proprietor is required to gauge distilled spirits, the proprietor must determine the proof in accordance with the procedures prescribed in part 30 of this chapter, Gauging Manual.

(b) *Use of Initial proof.* After a proprietor has determined the proof of distilled spirits in accordance with the procedures in part 30 of this chapter, a proprietor may use the initial determination of proof when required to make a later gauge at the same plant. However, a proprietor must determine the proof again when:

(1) A bottling tank gauge is required by § 19.353;

(2) A gauge for tax determination is required by § 19.226; or

(3) In any case where the proof may have changed.

(26 U.S.C. 5559)

**§ 19.286 Gauging of spirits in bottles.**

When gauging spirits in bottles, the proprietor may determine the proof and quantity from case markings and label information if the bottles are full and there is no evidence that tampering has occurred.

(26 U.S.C. 5204, 5559)

**§ 19.287 Gauging of alcoholic flavoring materials.**

Generally, alcoholic flavoring material must be gauged when dumped. However, when received from a manufacturer in a closed, nonporous container such material may be gauged by using the proof shown on the container label or a related statement of proof from the manufacturer. When the proof is determined from a label or manufacturer's statement, the proprietor will test a sufficient number of samples to verify the accuracy of the proof so determined. TTB may require that alcoholic flavoring materials be gauged by the methods provided in part 30 of this chapter.

(26 U.S.C. 5204, 5559)

**§ 19.288 Determination of tare.**

When packages are to be individually gauged for withdrawal from bonded premises, the actual tare must be determined in accordance with part 30 of this chapter.

(26 U.S.C. 5204)

**§ 19.289 Production gauge.**

(a) *General requirements for production gauges.* A proprietor must gauge all spirits by determining the quantity and proof as soon as reasonably possible after production is completed. Except as otherwise provided in this section, a proprietor may determine the quantity by volume or by weight, by an accurate mass flow meter, or when approved by the appropriate TTB officer, by other devices or methods that accurately determine the quantities. If caramel is added to brandy or rum, the proof of the spirits must be determined after the addition. Spirits in each receiving tank will be gauged before any reduction in proof and both before and after each removal of spirits. The gauges must be recorded in the records required by § 19.585.

(b) *Tax to be determined on production gauge.* If the tax is to be determined based on the production gauge, all transaction records must be marked "Withdrawal on Production Gauge." A proprietor may determine the tax based on the production gauge if the spirits are:

(1) Weighed into bulk conveyances or metered using an accurate mass flow meter;

(2) Uniformly filled by weight or an accurate mass flow meter into metal packages; or

(3) Filled by weight or an accurate mass flow meter into packages for immediate withdrawal from bonded premises with the details recorded on a package gauge record in accordance with § 19.619.

(c) *Tax not to be determined on production gauge.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and the containers are filled to capacity, and the tax is not to be determined on the basis of the production gauge, the gauge may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining the average content of each container;

(2) Measuring volumetrically, in a calibrated tank, converting the wine gallons determined into proof gallons, and determining the average content of each container;

(3) Converting the rated capacity into proof gallons to determine the average content of each container. Rated capacity will be determined from specifications of the manufacturer. The proprietor will determine the rated capacity of used cooperage; or

(4) Determining by an accurate mass flow meter or a device or method approved under paragraph (a) of this section, the total quantity filled into containers, and determining the average content of each container.

(d) *Records of production gauge.* For the production gauge, fractional proof gallons will be rounded to the nearest one-tenth and the average content and the number of packages filled will be used in computing the quantity produced. The actual proof gallons in each remnant container must be shown. As provided in § 19.618, a separate gauge record will be prepared for each lot of packages filled (see § 19.485) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. The gauge record will show "Deposit in Storage" or "Deposit in processing." If spirits are to be transferred in bond or withdrawn from bond, the production gauge will be made on the form or record required by this part (accompanied by a package gauge record, if required).

(26 U.S.C. 5204, 5211)

**Subpart L—Production of Distilled Spirits**

**§ 19.291 General.**

The regulations in this subpart cover production operations. A proprietor authorized to produce distilled spirits must conduct production operations in accordance with the provisions of this subpart. Subpart V of this part sets forth recordkeeping requirements that apply to production operations.

(26 U.S.C. 5201)

**Notification to TTB When Beginning or Suspending Production Operations**

**§ 19.292 Notice of operations.**

A proprietor authorized to produce distilled spirits may not commence, suspend, or resume production operations at the plant without first providing written notice to TTB.

(a) *Beginning operations.* A proprietor must file a letterhead notice with the appropriate TTB officer before beginning or resuming production operations. A proprietor must not begin or resume operations before the time specified in the notice.

(b) *Suspending operations.* If a proprietor intends to suspend production operations for a period of 90 days or more, the proprietor must file a letterhead notice with the appropriate TTB officer specifying the date on which operations will be suspended.

(c) *Discontinuing reports.* A proprietor is not required to prepare or file reports of production operations under subpart

V of this part for periods during which production operations are suspended.

(26 U.S.C. 5221)

### Rules for Receipt, Use, and Disposal of Materials

#### § 19.293 Receipt of materials.

When a proprietor receives certain materials on bonded premises, the proprietor must determine the quantity received and record those quantities in the records prescribed by subpart V of this part. This requirement applies to:

- (a) Fermenting materials;
- (b) Distilling materials (including nonpotable chemical mixtures containing spirits); and
- (c) Spirits, denatured spirits, articles, and spirits residue for redistillation.

(26 U.S.C. 5201, 5222, 5223)

#### § 19.294 Removal of fermenting material.

Material received for use as fermenting material may be removed from or used on bonded premises for other purposes. The proprietor must keep a record of use or removal as provided in subpart V of this part.

(26 U.S.C. 5201)

#### § 19.295 Removal or destruction of distilling material.

(a) *Distilling material.* Generally, a proprietor may not remove distilling material from bonded premises before it is distilled. However, a proprietor may remove mash, wort, wash, or other distilling material:

- (1) To plant premises, other than bonded premises, for use in any business authorized under § 19.55;
- (2) To other premises for use in processes not involving the production of spirits, alcohol beverages, or vinegar by the vaporizing process; or
- (3) For destruction.

(b) *Residues.* A proprietor may remove the residue of distilling material not introduced into the production system from the premises if the liquid is extracted from the material before removal and the liquid is not received at any distilled spirits plant or bonded wine cellar. A proprietor may return residue of beer used as distilling material to the producing brewery. A proprietor may destroy distilling material produced and wine and beer received for use as distilling material.

(c) *Records.* A proprietor must keep a record of removal or destruction as provided in subpart V of this part.

(26 U.S.C. 5222, 5370)

#### § 19.296 Fermented materials.

Fermented materials that a proprietor intends to use in the production of spirits must be:

(a) Produced on the bonded premises where used;

(b) Received from a bonded wine cellar in the case of wine;

(c) Beer received from a brewery without payment of tax, or beer that was removed from a brewery upon determination of tax; or

(d) Apple cider exempt from tax under 26 U.S.C. 5042(a)(1).

(26 U.S.C. 5201, 5222, 5223)

#### § 19.297 Use of materials in production of spirits.

A proprietor may produce spirits from any suitable material in accordance with the proprietor's statements of production procedure in the notice of registration. Materials from which alcohol will not be produced may be used in production only if the use of the materials is described in the approved statements of production procedure. The distillation of nonpotable chemical mixtures as described in § 19.36 will be deemed to be the original and continuous distillation of the spirits in such mixtures and to constitute the production of spirits.

(26 U.S.C. 5172, 5178)

### Rules for Production of Spirits

#### § 19.301 Distillation.

The distillation of spirits must be done in a continuous system. Distilling operations are continuous when the spirits are moved through the various steps of production as quickly as plant operation will permit. The proprietor may move the product through as many distilling or other production operations as desired, provided the operations are continuous. The collection of unfinished spirits for the purpose of redistillation is not considered to be a break in the continuity of the distilling procedure. However, the quantity and proof of any unfinished spirits must be determined and recorded before any mingling with other materials or before any further operations involving the unfinished spirits outside the continuous system. Before the production gauge, spirits may be held only as long as reasonably necessary to complete the production procedure.

(26 U.S.C. 5178, 5211, 5222)

#### § 19.302 Treatment during production.

During production, the proprietor may purify or refine the spirits by using any material that will not remain in the finished product. Juniper berries and other natural aromatics or their extracted oils may be used in the distillation of gin. Spirits may be percolated through or treated with oak chips that have not been treated with

any chemical. The proprietor must destroy or so treat any materials used in treatment of spirits, and which do not remain in the spirits, so as to preclude the extraction of potable spirits.

(26 U.S.C. 5201)

#### § 19.303 Addition of caramel to rum or brandy and addition of oak chips to spirits.

A proprietor may add caramel that has no material sweetening properties to rum or brandy in packages or tanks prior to production gauge. A proprietor may add oak chips that have not been treated with any chemical to packages of spirits prior to or after the production gauge. The proprietor must note the use of oak chips on all transaction records.

(26 U.S.C. 5201)

#### § 19.304 Production gauge.

A proprietor must gauge all spirits by determining the quantity and proof as soon as reasonably possible after production is completed. Additional requirements regarding production gauges are found in subpart K of this part.

(26 U.S.C. 5204, 5211)

#### § 19.305 Identification of spirits.

Upon completion of the production gauge, the proprietor must identify containers of spirits as provided in subpart S of this part. When the proprietor intends to enter spirits into bonded storage for later packaging in wooden packages, the proprietor may identify the spirits with the designation to which they would be entitled if drawn into wooden packages, followed by the word "Designate," for example, "Bourbon Whisky Designate."

(26 U.S.C. 5201, 5206)

#### § 19.306 Entry.

(a) Following completion of the production gauge, a proprietor must make the appropriate entry for:

- (1) Deposit of the spirits on bonded premises for storage or processing;
- (2) Withdrawal of the spirits on determination of tax;
- (3) Withdrawal of the spirits free of tax;

(4) Withdrawal of the spirits without payment of tax; or

(5) Transfer of the spirits for redistillation.

(b) A proprietor may use the production gauge as the entry gauge when spirits are:

- (1) Deposited for storage or processing at the same distilled spirits plant; or
- (2) Entered for redistillation at the same distilled spirits plant.

(c) When spirits are entered for deposit at another distilled spirits plant



or are entered for withdrawal or redistillation, the provisions subpart P of this part will apply.

(26 U.S.C. 5211)

**§ 19.307 Distillates containing extraneous substances.**

(a) *Use in production.* Distillates that contain substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system before the production gauge and promptly added to fermenting or distilling material at the distillery where produced.

(b) *Use at adjacent bonded wine cellar.* Distillates that contain aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use in fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The removal of distillates to an adjacent bonded wine cellar must be done as provided in § 19.419. The receipt and use of those distillates must conform to the requirements of part 24 of this chapter.

(26 U.S.C. 5201, 5222, 5373)

**Rules for Chemical Byproducts**

**§ 19.308 Spirits content of chemicals produced.**

All chemicals and chemical byproducts produced must be substantially free of spirits before being removed from bonded premises. The spirits content of chemicals to be removed from bonded premises must not exceed 10 percent by volume unless the appropriate TTB officer approves higher limits. A proprietor must test chemicals for spirits content and maintain a record of such tests as required by § 19.584.

(26 U.S.C. 5201)

**§ 19.309 Disposition of chemicals.**

Chemicals that meet the requirements in § 19.308 may be removed from bonded premises by pipeline or in containers marked to show the contents. The proprietor must determine the quantities of chemicals removed from bonded premises and keep records of removals as required by § 19.586. A TTB officer may take samples of chemicals.

(26 U.S.C. 5201, 5222)

**§ 19.310 Wash water.**

Water used in washing chemicals to remove spirits may be run into a wash tank or a distilling material tank, or may be destroyed or disposed of on the premises.

(26 U.S.C. 5008, 5201)

**Production Inventories**

**§ 19.312 Physical inventories.**

A proprietor must take a physical inventory of the spirits and denatured spirits in tanks and other containers in the production account at the close of each calendar quarter. A proprietor must record the results of the inventory as provided in subpart V of this part and must show separately spirits and denatured spirits received for redistillation. TTB may require additional inventories be taken at any time.

(26 U.S.C. 5201)

**Rules for Redistillation**

**§ 19.314 General.**

Distillers or processors may redistill spirits, denatured spirits, articles, and spirits residues. Some redistillation requires an approved formula on form TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages, as specified in §§ 5.26 and 5.27 of this chapter.

(26 U.S.C. 5223)

**§ 19.315 Receipts for redistillation.**

(a) A proprietor may receive and redistill spirits or denatured spirits that:

(1) Have not been removed from bond;

(2) Have been withdrawn from bond on payment or determination of tax and returned to bond under subpart Q of this part;

(3) Have been withdrawn from bond free of tax or without payment of tax and returned to bond under subpart T of this part; or

(4) Have been abandoned to the United States and sold to the proprietor without the payment of tax.

(b) A proprietor may also receive and redistill:

(1) Recovered denatured spirits and recovered articles returned under § 19.454, and

(2) Articles and spirits residues received under § 19.454.

(26 U.S.C. 5201, 5215, 5223, 5243)

**§ 19.316 Redistillation.**

(a) TTB has established standards of identity for the various classes and types of distilled spirits. Those standards are found in part 5 of this chapter. If a proprietor intends to redistill spirits, the proprietor must ensure that the redistillation process does not cause the distillate to become ineligible for designation in the class or type of spirits that the proprietor intends to produce. Therefore, spirits must not be redistilled at a proof lower than that allowed for the class and type at which the spirits

were originally produced, unless the redistilled spirits are to be:

(1) Used in wine production;

(2) Used in the manufacture of gin or vodka; or

(3) Designated as alcohol.

(b) In order to preserve the class and type of spirits during the redistillation process, different kinds of spirits must be redistilled separately, or with distilling material of the same kind or type as that from which the spirits were originally produced. However, this restriction does not apply when:

(1) Brandy is redistilled into “spirits-fruit” or “neutral spirits-fruit”. In this case the resulting distillate must not be used for producing wine;

(2) Whiskey is redistilled into “spirits-grain” or “neutral spirits-grain”;

(3) Spirits originally distilled from different kinds of material are redistilled into “spirits-mixed” or “neutral spirits-mixed”; or

(4) The spirits are redistilled into alcohol.

(c) All spirits redistilled after the production gauge will be treated the same as if the spirits had been originally produced by the redistiller. Spirits recovered by redistillation of denatured spirits, articles, or spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation. Otherwise, all provisions of this part and 26 U.S.C. chapter 51 applicable to the original production of spirits will be applicable to the redistillation of spirits. Nothing in this section affects any provision of this chapter relating to the labeling of distilled spirits.

(26 U.S.C. 5215, 5223)

**Subpart M—Storage of Distilled Spirits**

**§ 19.321 General.**

This subpart covers storage operations at distilled spirits plants. A proprietor qualified as a warehouseman and authorized to store bulk distilled spirits and wines must conduct storage operations in accordance with the provisions of this subpart. Subpart V of this part sets forth recordkeeping requirements that apply to storage operations.

(26 U.S.C. 5201)

**Receipt and Storage of Spirits and Wines**

**§ 19.322 Receipt and storage of bulk spirits and wines.**

(a) *Deposit of spirits into storage account.* A proprietor may receive bulk spirits into the storage account:

(1) From the production facilities of the same plant;

(2) By transfer in bond from another plant;

(3) From customs custody without payment of tax; or

(4) By return to bulk storage.

(b) *Deposit of wine into storage account.* A proprietor may receive bulk wine into the storage account:

(1) By transfer in bond from a bonded wine cellar; or

(2) By transfer in bond from another distilled spirits plant.

(c) *Storage.* A proprietor may store spirits or wines in packages, tanks or portable bulk containers in the storage account on the bonded premises. If stored in portable containers, the containers must be kept so that they can be readily inspected or inventoried by TTB officers.

(26 U.S.C. 5201, 5202, 5211, 5212, 5231, 5232, 5601)

### Rules for Filling and Changing Packages

#### § 19.324 Filling of packages from tanks.

A proprietor may fill spirits or wines into packages from storage tanks on bonded premises. The spirits or wines in the tank must be gauged before the filling of packages begins and again when the filling is finished if the tank is not empty. The results of the gauges must be recorded in the records required by § 19.618.

(26 U.S.C. 5201)

#### § 19.325 Change of packages.

A proprietor may transfer spirits or wines in storage from one package to another. Each new package must contain spirits from only one package except in the case of spirits of 190° or more proof. Packages of spirits must be marked as provided in subpart S of this part. Each package of wine must bear the same marks as the package from which the wine was transferred.

(26 U.S.C. 5201)

### Rules for Mingling or Blending Spirits

#### § 19.326 Mingling or blending of spirits for further storage.

A proprietor may mingle or blend spirits in the storage account according to the following rules:

(a) Spirits distilled at 190° or more of proof, whether or not later reduced, may be mingled in storage.

(b) Domestic spirits distilled at less than 190° of proof may be mingled for withdrawal or further storage if the spirits:

(1) Are of the same kind; and

(2) Were produced in the same State.

(c) Imported spirits distilled at less than 190° of proof may be mingled for

withdrawal or further storage if the spirits:

(1) Are of the same kind;

(2) Were produced in the same foreign country; and

(3) Were treated, blended, or compounded in the same foreign country and the U.S. import duty was paid at the same rate.

(d) Imported spirits distilled at less than 190° of proof that are recognized as distinctive products under part 5 of this chapter may be mingled for withdrawal or further storage if the spirits:

(1) Are of the same kind;

(2) Were produced by the same proprietor in the same foreign country; and

(3) Were treated, blended, or compounded by the same proprietor in the same foreign country and the U.S. import duty was paid at the same rate.

(e) Fruit brandies distilled from the same kind of fruit at not more than 170° of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be blended with each other, or with any blend of such fruit brandies in storage. Rums may, for the sole purpose of perfecting them according to commercial standards, be blended with each other, or with any blend of rums.

(f) Packaging after mingling or blending must be done under the provisions of § 19.324. The mingled or blended spirits may be returned to the packages from which they were dumped, or as many of the packages as needed.

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

#### § 19.327 Packages dumped for mingling.

A proprietor must examine each package of spirits to be dumped for mingling. If any package bears evidence of loss due to theft or unauthorized voluntary destruction, the proprietor must notify the appropriate TTB officer before dumping the package. Mingled spirits must be recorded on the tank record required by §§ 19.592 and 19.593, as appropriate.

(26 U.S.C. 5201)

#### § 19.328 Determining age of mingled spirits.

When spirits are mingled, the age of the spirits for the entire lot will be the age of the youngest spirits contained in the lot.

(26 U.S.C. 5201)

#### § 19.329 Mingled spirits or wines held in tanks.

When wines or spirits of less than 190° of proof are mingled in a tank, the proprietor must gauge the spirits or wines in the tank and record the

mingling gauge on the tank record prescribed in § 19.592.

(26 U.S.C. 5201)

### Use of Oak Chips and Caramel

#### § 19.331 Use of oak chips in spirits and caramel in brandy and rum.

A proprietor may add oak chips that have not been treated with any chemical to packages of spirits. The proprietor must note the use of oak chips on all transaction records. A proprietor may add caramel that has no material sweetening properties to rum or brandy stored in packages or tanks.

(26 U.S.C. 5201)

(26 U.S.C. 5201)

### Storage Inventories

#### § 19.333 Physical inventories.

A proprietor must take a physical inventory of all spirits and wines held in the storage account in tanks and other containers (except packages) at the close of each calendar quarter. A proprietor must record the results of the inventory as provided in subpart V of this part. TTB may require additional inventories at any time.

(26 U.S.C. 5201)

(26 U.S.C. 5201)

### Subpart N—Processing of Distilled Spirits

#### § 19.341 General.

This subpart covers processing operations at distilled spirits plants. A proprietor authorized to perform processing operations must conduct processing operations in accordance with the provisions of this subpart. Subpart V of this part sets forth recordkeeping requirements that apply to processing operations. Also, the provisions of subpart O of this part apply if a proprietor denatures spirits or manufactures articles on bonded premises as part of processing operations under this subpart.

(26 U.S.C. 5201)

### Rules for Receipt and Use of Spirits, Wines, and Alcoholic Flavoring Materials

#### § 19.342 Receipt of spirits, wines, and alcoholic flavoring materials for processing.

(a) *Receipt of bulk spirits.* A proprietor may receive bulk spirits into the processing account:

(1) From the production or storage account at the same plant;

(2) By transfer in bond from another distilled spirits plant; or

(3) By withdrawal from customs custody under 26 U.S.C. 5232.

(b) *Receipt of wines.* A proprietor may receive wines into the processing account:

(1) From the storage account at the same plant; or

(2) By transfer in bond from a bonded wine cellar or another distilled spirits plant.

(c) *Receipt of spirits returned to bond.* A proprietor may receive spirits into the processing account that are returned to bond under the provisions of 26 U.S.C. 5215.

(d) *Receipt of alcoholic flavoring materials.* A proprietor may receive alcoholic flavoring materials into the processing account.

(e) *Dumping of spirits, wines, and alcoholic flavoring materials.* As provided in §§ 19.343 and 19.598, the proprietor must prepare a dump/batch record when spirits, wines, and alcoholic flavoring materials are dumped for use in the processing account. Spirits, wines, and alcoholic flavoring materials that are dumped into the processing account are subject to the following rules:

(1) Spirits and wines received in bulk containers or conveyances may be retained in the containers or conveyances in which received until used, but must be recorded as dumped upon receipt;

(2) Spirits and wines received by pipeline must be deposited in tanks and recorded as dumped on receipt; and

(3) Alcoholic flavoring materials may be retained in the containers in which received or may be transferred to another container if the proprietor marks or otherwise indicates thereon, the full identification of the original container, the date of receipt, and the quantity deposited. Alcoholic flavoring materials and nonalcoholic ingredients will be considered dumped when mixed with spirits or wines.

(f) *Gauging.* A proprietor must determine the proof gallon content of spirits, wines, and alcoholic flavoring materials at the time of dumping. Additional information regarding the gauging of spirits, wines, and alcoholic flavoring materials is found in subpart K of this part.

(26 U.S.C. 5201)

(26 U.S.C. 5201)

#### **§ 19.343 Use of spirits, wines, and alcoholic flavoring materials.**

A proprietor must prepare a dump/batch record in accordance with § 19.598 for spirits, wines, alcoholic flavoring materials, and nonalcoholic ingredients used in the manufacture of a distilled spirits product according to the following rules.

(a) *Dump record.* A proprietor must prepare a dump record when spirits, wines, or alcoholic flavoring materials are dumped for use in the manufacture of a distilled spirits product, and when spirits are dumped for redistillation in the processing account.

(b) *Batch record.* A proprietor must prepare a batch record to report:

(1) The dumping of spirits that are to be used immediately and in their entirety in preparing a batch of a product manufactured under an approved formula;

(2) The use of spirits or wines previously dumped, reported on dump records and retained in tanks or receptacles; or

(3) The use of any combination of ingredients under paragraph (b)(1) or paragraph (b)(2) of this section in preparing a batch of product manufactured under an approved formula.

(26 U.S.C. 5201)

#### **§ 19.344 Manufacture of nonbeverage products, intermediate products, or eligible flavors.**

(a) Distilled spirits and wine may be used for the manufacture of flavors or flavoring extracts of a nonbeverage nature as intermediate products to be used exclusively in the manufacture of other distilled spirits products on bonded premises.

(b) Nonbeverage products on which drawback will be claimed, as provided in 26 U.S.C. 5111–5114, may not be manufactured on bonded premises. Premises used for the manufacture of nonbeverage products on which drawback will be claimed must be separated from bonded premises.

(c) For purposes of computing an effective tax rate, flavors manufactured on either the bonded or general premises of a distilled spirits plant are not eligible flavors. See § 19.1 for the definition of the term “eligible flavor” and further restrictions that apply to the manufacture of an eligible flavor.

(26 U.S.C. 5201)

#### **Obscuration Determination**

##### **§ 19.346 Determining obscuration.**

A proprietor may determine, as provided in § 30.32 of this chapter, the proof obscuration of spirits to be bottled on the basis of a representative sample taken from a storage tank before the transfer of the spirits to the processing account or from a tank after the spirits have been dumped for processing, whether or not combined with other alcoholic ingredients. The obscuration will be determined after the sample has been reduced to within one degree of

bottling proof. Only water may be added to a lot of spirits to be bottled for which the determination of proof obscuration is made from a sample under this section. The proof obscuration for spirits gauged under this section must be frequently verified by testing samples taken from bottling tanks before bottling.

(26 U.S.C. 5204)

#### **Filing Formulas with TTB**

##### **§ 19.348 Formula requirements.**

A proprietor must obtain approval of a formula on form TTB F 5100.51 as provided in §§ 5.26 and 5.27 of this chapter before a proprietor may:

(a) Blend, mix, purify, refine, compound, or treat spirits in any manner which results in a change of character, composition, class, or type of the spirits, including redistillation as provided in § 19.314; or

(b) Produce gin or vodka by other than original and continuous distillation.

(26 U.S.C. 5201, 5555)

#### **Rules for Bottling, Packaging, and Removal of Products**

##### **§ 19.351 Removals from processing.**

(a) *Method of removal.* A proprietor may remove spirits or wines from the processing account in any approved bulk container, by pipeline, or in bulk conveyances in compliance with the provisions of this part. Spirits may be bottled and cased for removal.

(b) *Authorized removals from processing.* A proprietor may remove from processing:

(1) Spirits, upon tax determination or withdrawal under 26 U.S.C. 5214 or 26 U.S.C. 7510;

(2) Spirits, to the production account at the same plant for redistillation;

(3) Bulk spirits, by transfer in bond to production or processing account at another distilled spirits plant for redistillation or further processing;

(4) Spirits or wines, for authorized voluntary destruction; or

(5) Wines, by transfer in bond to a bonded wine cellar or to another distilled spirits plant. However, wine may not be removed from the bonded premises of a distilled spirits plant for consumption or sale as wine.

(c) *Exception.* Except as provided in paragraph (b)(2) and (3) of this section, spirits may not be transferred from the processing account to the storage account.

(26 U.S.C. 5001, 5006, 5008, 5201, 5206, 5212, 5214, 5223, 5362)

##### **§ 19.352 Bottling tanks.**

Generally, a proprietor must bottle all spirits from tanks that are listed in the

notice of registration and have been certified as accurate. However, if a proprietor files a letterhead application and shows the need to do so, the appropriate TTB officer may authorize bottling from original packages, tank trucks, totes or special containers where it is not practical to use a bottling tank. In addition, a proprietor may bottle liqueurs directly from a tank truck or tote without applying for permission to TTB if the liqueurs are gauged prior to unloading and piped directly to the bottling line.

(26 U.S.C. 5201)

#### § 19.353 Bottling tank gauge.

When a distilled spirits product is to be bottled or packaged, the proprietor must gauge the product after any filtering, reduction, or other treatment, and before bottling or packaging begins. The gauge must be made at labeling or package marking proof, and the details of the gauge must be entered on the bottling and packaging record required in § 19.599.

(26 U.S.C. 5201)

#### § 19.354 Bottling or packaging records.

A proprietor must prepare a record for each batch of spirits bottled or packaged as provided in § 19.599. A proprietor must keep a separate daily summary record of spirits bottled or packaged as provided in § 19.601.

(26 U.S.C. 5201, 5207)

#### § 19.355 Labels describing the spirits.

(a) Labels affixed to containers must accurately describe the spirits in the tanks from which the containers are filled. The proprietor's records must enable TTB officers to readily determine which label was used on any filled container.

(b) Additional information regarding labeling requirements is found in subpart T of this part and part 5 of this chapter.

(26 U.S.C. 5201)

#### § 19.356 Alcohol content and fill.

(a) *General.* At representative intervals during bottling operations, a proprietor must examine and test bottled spirits to determine whether the alcohol content and quantity (fill) of those spirits agree with what is stated on the label or the bottle. A proprietor's test procedures must be adequate to ensure accuracy of labels on the bottled product. Proprietors must record the results of all tests of alcohol content and quantity (fill) in the record required by § 19.600.

(b) *Variations in fill.* Quantity (fill) must be kept as close to 100 percent fill

as the equipment and bottles in use will permit. There must be approximately the same number of overfills and underfills for each lot bottled. In no case will the quantity contained in a bottle vary from the quantity stated on the label or bottle by more than plus or minus:

(1) 1.5 percent for bottles 1.0 liter and above;

(2) 2.0 percent for bottles 999 mL through 376 mL;

(3) 3.0 percent for bottles 375 mL through 101 mL; or

(4) 4.5 percent for bottles 100 mL and below.

(c) *Variations in alcohol content.*

Variations in alcohol content, subject to a normal drop that may occur during bottling, must not exceed:

(1) 0.25 percent alcohol by volume for products containing solids in excess of 600 mg per 100 ml;

(2) 0.25 percent alcohol by volume for all spirits products bottled in 50 or 100 ml size bottles; or

(3) 0.15 percent alcohol by volume for all other spirits and bottle sizes.

(d)

*Example. Under paragraph (c) of this section, a product with a solids content of less than 600 mg per 100 ml, labeled as containing 40 percent alcohol by volume and bottled in a 750 ml bottle, would be acceptable if the test for alcohol content found that it contained 39.85 percent alcohol by volume.*

(26 U.S.C. 5201, 5301)

#### § 19.357 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the proprietor must make entries on the bottling and packaging record covering the total quantity bottled that day from the tank. Entries must be made not later than the morning of the following business day unless the proprietor maintains auxiliary or supplemental records as provided in § 19.580.

(26 U.S.C. 5201)

#### § 19.358 Cases.

(a) On completion of bottling, a proprietor must place filled bottles with properly affixed closures in cases. A proprietor may only fill cases with the same kind, size, and proof of spirits. Normally, the cases must be sealed; however, cases may be temporarily retained on bonded premises without being sealed pending the affixing to bottles of any required labels, State stamps, or seals. Unsealed cases must be marked in accordance with subpart S of this part, and segregated from other cases until sealed. All cases must be sealed and marked as provided in

subpart S of this part before removal from the bonded premises.

(b) Filled bottles may remain on the bottling line at the end of the workday if the identical product will be bottled on the next bottling shift and if adequate security measures are in place to prevent theft.

(26 U.S.C. 5201, 5206)

#### § 19.359 Remnants.

When at the end of a bottling run fewer bottles remain than the number necessary to fill a case, the remaining bottles may be placed in a case marked as a remnant case or kept uncased on the bonded premises until spirits of the same kind are again bottled. The remnant bottles may later be used to complete the filling of a case, or may be used for another lawful purpose such as replacing accidental breakage occurring on bonded premises.

(26 U.S.C. 5201, 5206)

#### § 19.360 Filling packages.

A proprietor may draw spirits into packages from a tank meeting the requirements of §§ 19.182 through 19.184. A proprietor must gauge the packages, report the details of the gauge on a package gauge record as provided in § 19.619, and attach a copy of the package gauge record to each copy of the bottling and packaging record covering the product. The packages must be marked as provided in subpart S of this part.

(26 U.S.C. 5201)

#### § 19.361 Removals by bulk conveyances or pipelines.

(a) When a proprietor removes spirits from the processing account in bulk conveyances or by pipeline, the proprietor must record the removal on the bottling and packaging record.

(b) Transfers and withdrawals of bulk spirits from the processing account must be performed in accordance with the provisions of subpart P of this part.

(c) The consignor of the transfer must forward to the consignee a statement of composition or a copy of any formula under which the spirits were processed for determining the proper use of the spirits, or for the labeling of the finished product.

(d) Bulk conveyances must be marked as provided in subpart S this part.

(26 U.S.C. 5201)

#### § 19.362 Rebotting.

When spirits are dumped for rebotting, the proprietor must prepare an appropriately modified bottling and packaging record. If the spirits were originally bottled by another proprietor,

the rebottling proprietor must obtain a statement from the original bottler consenting to the rebottling.

(26 U.S.C. 5201)

**§ 19.363 Reclosing and relabeling.**

(a) A proprietor may reclose or relabel distilled spirits before removal from, or after return to, bonded premises. The reclosing or relabeling of spirits returned to bonded premises must be done immediately, and the spirits promptly removed.

(b) If the spirits were originally bottled by another proprietor, the relabeling proprietor must have on file a statement from the original bottler consenting to the relabeling.

(c) When spirits are relabeled, the proprietor must have a certificate of label approval or certificate of exemption from label approval issued under part 5 of this chapter for the labels used on relabeled spirits.

(d) A proprietor must prepare a separate record under § 19.604 for the relabeling or reclosing of spirits.

(26 U.S.C. 5201, 5215)

**§ 19.364 Bottled-in-bond spirits.**

If a proprietor labels spirits as bottled-in-bond for domestic consumption the labels must meet the requirements in part 5 of this chapter and the bottles must bear a closure or other device as required by subpart T of this part.

(26 U.S.C. 5201)

**§ 19.365 Spirits not originally intended for export.**

Spirits produced in the United States and originally intended for domestic use may be exported with benefit of drawback or without payment of tax if the containers are marked as required by part 28 of this chapter. A proprietor may relabel the spirits to show any of the information required by § 19.519. If a proprietor intends to file a claim for drawback on spirits prepared for export under this section, the proprietor must follow the provisions of § 28.195b of this chapter. If a proprietor intends to withdraw spirits without payment of tax for export, the proprietor must follow the procedures in subpart E of part 28 of this chapter.

(26 U.S.C. 5062, 5214)

**§ 19.366 Alcohol.**

(a) *Containers.* A proprietor may put alcohol for industrial use in bottles, packages, or other containers, subject to the provisions of subpart S of this part. A proprietor must follow the provisions of subpart T of this part when bottling alcohol for nonindustrial domestic use.

(b) *Closures.* Closures or other devices must be affixed to containers of alcohol as provided in subpart T of this part.

(c) *Bottle labels.* All bottles of alcohol for industrial use must have a label that is securely affixed to the bottle showing the word "Alcohol" and the name and plant number of the bottler. The proprietor may place additional information on the label if it is not inconsistent with the required information.

(d) *Case marks.* Each case of bottled alcohol must bear the marks required by subpart S of this part.

(26 U.S.C. 5201, 5206, 5235, 5301)

**Requirements for Processing Inventories**

**§ 19.371 Inventories of wines and bulk spirits in processing.**

A proprietor must take a physical inventory of all wines and bulk spirits (except packages) held in the processing account at the close of each calendar quarter. The results of the inventory must be recorded as provided in subpart V of this part. TTB may require additional inventories at any time.

(26 U.S.C. 5201)

**§ 19.372 Physical inventories of bottled and packaged spirits.**

(a) *Physical inventories.* Generally, a proprietor must take physical inventories of bottled and packaged spirits in the processing account for the return periods ending June 30 and December 31, and at any other time that the appropriate TTB officer requires. Physical inventories may be taken within a period of a few days before or after June 30 or December 31 if:

(1) The period does not include more than one complete weekend; and

(2) Necessary adjustments are made to the inventory record to reflect the actual quantities on hand June 30 or December 31.

(b) *Alternate dates.* On approval of an application filed with the appropriate TTB officer, required physical inventories may be taken on dates other than June 30 and December 31 if the dates established for taking such inventories:

(1) Coincide with the end of a return period, and

(2) Are approximately 6 months apart.

(c) *Waiver of physical inventory.* A proprietor may file an application to take only one physical inventory per year. The appropriate TTB officer may approve the application if she or he finds that only one physical inventory per year will be sufficient to protect the revenue. However, the requirement for the waived inventory may be reimposed

if it becomes necessary for protection of the revenue.

(d) *Notification of physical inventory.* A proprietor must notify the appropriate TTB officer at least 5 business days in advance of the date and time of a physical inventory of bottled or packaged spirits. TTB officers may be assigned to verify or supervise physical inventories taken under the provisions of this section.

(26 U.S.C. 5201)

**Subpart O—Denaturing Operations and Manufacture of Articles**

**§ 19.381 General.**

This subpart covers the denaturation of spirits and the manufacture of articles by proprietors of distilled spirits plants. Denatured spirits are distilled spirits that have been rendered unsuitable for beverage use by the addition of specific amounts of approved denaturing materials. For purposes of this subpart, articles are products that contain denatured spirits and that are made in accordance with this subpart or part 20 of this chapter. Proprietors who are qualified under this part as processors may make denatured spirits and articles in accordance with the provisions of this subpart. Additional requirements regarding the distribution, use, and standards for denatured spirits are set forth in parts 20 and 21 of this chapter.

(26 U.S.C. 5178, 5241)

**§ 19.382 Formulas.**

(a) *Approved formulas.* A proprietor must denature spirits according to an approved formula listed in part 21 of this chapter.

(b) *Alternate formulas and denaturants.* If a proprietor wishes to denature spirits by using an alternative formula or a different denaturant, the proprietor must apply to TTB for authorization. A proprietor must receive written approval from the appropriate TTB officer before denaturing spirits using an alternative formula or a different denaturant. See also §§ 21.5 and 21.91 of this chapter for additional requirements that apply in these circumstances.

(26 U.S.C. 5241)

**Rules for Denaturing Spirits and Testing Denaturants**

**§ 19.383 Gauging for denaturation.**

(a) *General.* A proprietor must gauge spirits before denaturation and after denaturation and must record each gauge in the record of denaturation required by § 19.606(b). However, a proprietor is not required to gauge either spirits that are dumped from previously

gauged containers or spirits that are transferred directly to mixing tanks from gauge tanks where they were gauged. Measurements of spirits and denaturants may be made by volume, weight, accurate mass flow meter, or by any other device that has been approved by the appropriate TTB officer.

(b) *Denaturation and article manufacture in a single process.* When a proprietor both denatures spirits and manufactures articles in a single, unified process, the proprietor may, in place of the procedure specified in paragraph (a) of this section, gauge the spirits before and after denaturation in the following manner:

(1) Gauge the spirits to be denatured by volume, weight, accurate mass flow meter, or other device or method approved by the appropriate TTB officer;

(2) Gauge the denaturants to be used by volume, weight, accurate mass flow meter, or other device approved by the appropriate TTB officer; and

(3) Compute the number of wine gallons of denatured spirits produced, and enter this figure in the record required by § 19.606(b). In calculating the amount of denatured spirits produced, the proprietor must not include in the calculation the amount of additional chemicals or denaturants used for article manufacture.

(26 U.S.C. 5204, 5241)

#### **§ 19.384 Adding denaturants to spirits.**

(a) When making denatured spirits, a proprietor must mix the denaturants and spirits only in packages, tanks or bulk conveyances and only on bonded premises. A proprietor must thoroughly mix the denaturants with the spirits to ensure that all of the spirits are effectively denatured.

(b) If a proprietor wishes to use another method of mixing denaturants and spirits not prescribed in this subpart, the proprietor must submit to the appropriate TTB officer a written application for approval of the alternative method in accordance with § 19.27. TTB may require that the proprietor submit additional information, including a flow diagram or other graphic representation of the alternative method, in support of the application.

(26 U.S.C. 5242)

#### **§ 19.385 Making alcohol or water solutions of denaturants.**

If a proprietor uses a denaturant that is difficult to dissolve in spirits at normal working temperatures, that is highly volatile, or that becomes solid at normal working temperature, the proprietor may liquefy or dissolve the

denaturant in a small amount of spirits or water prior to its use in the production of denatured spirits.

However, the proof of the denatured spirits produced must not fall below the proof required by the approved formula. In addition, if alcohol is used as a solvent, the proprietor must include this additional alcohol in calculating the total quantity of spirits denatured in the batch.

(26 U.S.C. 5242)

#### **§ 19.386 Adjusting pH of denatured spirits.**

A proprietor may add trace amounts of acidic or caustic chemical compounds to adjust or neutralize the pH of denatured spirits. However, a proprietor may not adjust the pH with any substance that will counteract or reduce the effect of the denaturants. A proprietor who adjusts the pH of denatured spirits must keep a record of the adjustment with reference to the formula number of the treated denatured spirits. The record must include the kinds and quantities of chemical compounds used for each batch of denatured spirits treated.

(26 U.S.C. 5241, 5242)

#### **§ 19.387 Ensuring the quality of denaturants.**

(a) *General.* Proprietors must ensure that the materials they receive for use in denaturing conform to the specifications prescribed in part 21 of this chapter. In addition, the appropriate TTB officer may require that a proprietor test the quality of denaturants at any time.

(b) *Testing.* A proprietor must comply with the following when testing a lot of denaturants:

(1) *Sampling denaturants.* Proprietors must use good commercial practice when taking samples of denaturants for quality assurance testing. Samples of denaturants must be representative of the lot being sampled.

(2) *Third party testing.* A proprietor may employ an outside laboratory or other appropriate third party to test samples of denaturants. In the case of a third party test, the proprietor must obtain a copy of the analysis or statement of findings signed by the chemist who performed the test. On request, the proprietor must provide to the appropriate TTB officer samples of denaturants for quality control testing in a Government laboratory.

(c) *Substandard denaturants.* If TTB or a proprietor finds that a material does not conform to the specifications for a denaturant prescribed in part 21 of this chapter, the proprietor must immediately terminate use of the substandard material as a denaturant. However, the proprietor may continue

to use the material as a denaturant after treating or reprocessing the substandard material to correct the deficiency and bring the material into conformity with the applicable specifications.

(26 U.S.C. 5242)

#### **Rules for Storing Denatured Spirits and Filling Containers**

##### **§ 19.388 Storing denatured spirits.**

(a) *Bonded storage.* A proprietor must store on bonded premises all denatured spirits produced, received in bond, or received by return to bond.

(b) *Storage methods.* A proprietor may store denatured spirits on bonded premises in any appropriate tank, package or container authorized for filling with denatured spirits. The proprietor must store containers of denatured spirits in a manner that allows for easy inspection and inventory of the denatured spirits by TTB officers. A proprietor must store portable containers of denatured spirits within a building or structure that protects the spirits from unauthorized access. A proprietor may apply to the appropriate TTB officer for authorization to store containers of denatured spirits in an alternative manner in accordance with § 19.27.

(c) *Tank Records.* A proprietor must maintain a record for tanks in which denatured spirits are stored in accordance with § 19.606.

(26 U.S.C. 5201)

##### **§ 19.389 Filling containers from tanks.**

(a) *Filling portable containers.* A proprietor may fill portable containers with denatured spirits from tanks on the bonded premises.

(b) *Accounting for denatured spirits in filling operations.* In performing filling operations under paragraph (a) of this section, a proprietor must:

(1) Gauge the denatured spirits remaining in the tanks at the end of each filling operation;

(2) Maintain a record of each gauge and document the quantity of denatured spirits drawn from the tank during each filling operation; and

(3) Make a record of any spirits lost during the filling operation.

(c) *Gauging requirements.* The provisions of § 19.289(a) and (c) apply to the filling and gauging of portable containers. In addition, a proprietor may withdraw denatured spirits from the bonded premises in portable containers based on the filling gauge.

(26 U.S.C. 5201)

##### **§ 19.390 Container marking requirements.**

A proprietor must mark packages and portable containers containing

denatured spirits in accordance with the requirements of subpart S of this part. (26 U.S.C. 5206)

### Rules for Mixing and Converting Denatured Spirits

#### § 19.391 Mixing denatured spirits.

(a) *Spirits of the same formula.* If a proprietor has two or more different batches of denatured spirits produced under the same formula, the proprietor may mix them on bonded premises.

(b) *Spirits of different formulas.* A proprietor may mix denatured spirits produced under different formulas on bonded premises for immediate redistillation at the same plant or at another plant subject to the provisions of §§ 19.314, 19.315, and 19.316.

(26 U.S.C. 5241, 5242)

#### § 19.392 Converting denatured alcohol to a different formula.

(a) *General.* A proprietor may convert specially denatured alcohol (SDA) from one formula of SDA to another formula of SDA if the resultant mixture contains only alcohol and the denaturants listed for an approved SDA formula and in the correct concentrations, as set forth in part 21 of this chapter. Such converted SDA may be used only as authorized in part 21 of this chapter.

(b) *Converting SDA to SDA Formula No. 1—(1) All SDA other than SDA Formulas No. 3–A and No. 30.* A proprietor may convert any SDA, other than SDA produced under Formulas No. 3–A and No. 30, into SDA Formula No. 1 by adding methyl alcohol and any one of the other alternative denaturants listed in § 21.32 of this chapter in accordance with the formulation prescribed in that section.

(2) *SDA Formulas No. 3–A and No. 30.* SDA Formulas No. 3–A and No. 30 specify more methyl alcohol than is specified for SDA Formula No. 1. Therefore, in order to convert SDA produced under Formulas No. 3–A or No. 30 into SDA under Formula No. 1, a proprietor must first add a sufficient amount of ethyl alcohol to the SDA in question to bring the methyl alcohol content to the proportion prescribed for SDA Formula No. 1. After adjusting the proportion of methyl alcohol, the proprietor must add the specified amount of any one of the other alternative denaturants listed in § 21.32 of this chapter.

(c) *Converting SDA to SDA Formula No. 29.* A proprietor may convert any SDA into SDA Formula No. 29 by adding the amount of acetaldehyde or ethyl acetate specified in § 21.56 of this chapter. However, due to the presence of other denaturants from the original

formula, SDA under Formula No. 29 that has been converted from another SDA formula may be used only as authorized in § 21.56(b) but not in the manufacture of vinegar, drugs or medicinal chemicals, and the conditions governing use provided in § 21.56(c) will apply.

(d) *Other conversions of SDA.* If a proprietor wishes to make an SDA formula conversion other than one authorized in paragraph (a), (b), or (c) of this section, the proprietor must obtain approval from the appropriate TTB officer prior to the conversion.

(e) *Conversions to completely denatured alcohol.* A proprietor may convert any SDA from a formula that does not contain methyl alcohol or wood alcohol to any one of the completely denatured alcohol (CDA) formulas prescribed in subpart C of part 21 of this chapter, by adding the denaturants specified for CDA.

(26 U.S.C. 5242)

### Rules for Restoration and Redenaturation, Inventories, and Manufacture of Articles; Records Required

#### § 19.393 Restoration and redenaturation of recovered denatured spirits and recovered articles.

(a) *Recovered denatured spirits and articles.* A proprietor may receive recovered denatured spirits and recovered articles on bonded premises for restoration (including redistillation, if necessary), or redenaturation, or both, as provided in subpart Q of this part. However, the proprietor may not withdraw the spirits from bonded premises except for industrial use or after redenaturation.

(b) *Spirits or articles retaining some denaturants.* If recovered denatured spirits or recovered articles are to be redenatured and do not require the full amount of denaturants for redenaturation, the proprietor must make an entry to that effect in the record of denaturation required by § 19.606(b).

(26 U.S.C. 5242)

#### § 19.394 Inventory of denatured spirits.

A proprietor must take a physical inventory of all denatured spirits in the processing account at the close of each calendar quarter. The proprietor must record the results of that inventory as provided in subpart V of this part. TTB may require additional inventories at any time.

(26 U.S.C. 5201)

#### § 19.395 Manufacture of articles.

A proprietor must manufacture, label, mark and dispose of articles in accordance with part 20 of this chapter. (26 U.S.C. 5273)

#### § 19.396 Required records.

(a) *Records of denaturing operations.* A proprietor who denatures spirits must maintain daily records of denaturing operations in accordance with § 19.606.

(b) *Records of manufacture of articles.* A proprietor who manufactures articles must maintain daily records in accordance with § 19.607.

(26 U.S.C. 5241)

### Subpart P—Transfers, Receipts, and Withdrawals

#### § 19.401 Authorized transactions.

(a) *General.* A proprietor of a distilled spirits plant may transfer spirits and wines in bond to other distilled spirits plants, receive spirits and wines in bond from other distilled spirits plants, receive spirits from customs custody, and withdraw spirits from the distilled spirits plant without payment of tax or free of tax under certain conditions. This subpart sets forth the rules that a proprietor must follow when so transferring, receiving, or withdrawing spirits and wines and also includes related rules for taking samples and securing conveyances.

(b) *Other transfers and withdrawals.* For withdrawals of spirits from bonded premises on determination or payment of tax, see subpart I of this part. For rules regarding withdrawals for exportation and transfers to foreign trade zones or to customs bonded warehouses, see part 28 of this chapter.

(26 U.S.C. 5181, 5212, 5213, 5214, 5232, 5362, 5373)

### Transfers Between Bonded Premises

#### § 19.402 Authorized transfers in bond.

The IRC allows a proprietor to transfer and receive spirits, wines, and industrial alcohol as provided in paragraphs (a) through (c) of this section.

(a) *Spirits.* Bulk spirits or denatured spirits may be transferred in bond between the bonded premises of plants qualified under 26 U.S.C. 5171 or 26 U.S.C. 5181 in accordance with §§ 19.403 and 19.733. However, spirits or denatured spirits produced from petroleum, natural gas, or coal may not be transferred to alcohol fuel plants.

(b) *Wine.* Wines may be transferred: (1) From a bonded wine cellar to the bonded premises of a distilled spirits plant;

(2) From the bonded premises of a distilled spirits plant to a bonded wine cellar; and

(3) Between the bonded premises of distilled spirits plants.

(c) *Alcohol for industrial purposes.* Alcohol bottled for industrial purposes in accordance with § 19.366 and subpart S of this part, may be transferred between the bonded premises of distilled spirits plants in the same manner as provided in §§ 19.403 through 19.407 for bulk distilled spirits. (26 U.S.C. 5181, 5212, 5362)

**§ 19.403 Application to receive spirits in bond.**

(a) When the proprietor of a distilled spirits plant qualified under 26 U.S.C. 5171 or of an alcohol fuel plant qualified under 26 U.S.C. 5181 wishes to have spirits or denatured spirits transferred in bond to his plant from another distilled spirits plant, the proprietor must complete an application on form TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond, in triplicate, and forward it to the appropriate TTB officer for approval. A proprietor is not required to submit an application on TTB F 5100.16 for transfers from customs custody under 26 U.S.C. 5232.

(b) TTB will not approve the application submitted under paragraph (a) of this section unless the proprietor's operations bond or unit bond either is in the maximum penal sum amount or is sufficient to cover the tax on the spirits or denatured spirits to be transferred in addition to all other liabilities chargeable against the bond. If TTB approves the application, TTB will return two signed copies of the approved application to the proprietor.

(c) Upon receipt of an approved application from TTB, the proprietor must retain one of the signed copies for his files and forward the other signed copy to the consignor that will ship the spirits or denatured spirits.

(26 U.S.C. 5005, 5112)

**§ 19.404 Termination of application.**

A proprietor may at any time terminate an approved application on form TTB F 5100.16 by retrieving the consignor's copy and returning it together with his own approved copy to the appropriate TTB officer for cancellation.

(26 U.S.C. 5005)

**§ 19.405 Consignor for in-bond shipments.**

(a) *General.* A proprietor who ships spirits, denatured spirits, or wines by transfer in bond is the "consignor" of the shipment for purposes of this part. The following rules apply to these transfers:

(1) A consignor who is a proprietor of a distilled spirits plant must prepare a transfer record in accordance with § 19.620 to cover the transfer in bond of—

(i) Spirits or denatured spirits to another distilled spirits plant pursuant to an approved application on form TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond;

(ii) Wine to the bonded premises of a distilled spirits plant or a bonded wine cellar; or

(iii) Spirits or denatured spirits to an alcohol fuel plant pursuant to an approved application on TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond; and

(2) A consignor who is a proprietor of an alcohol fuel plant must prepare a transfer record in accordance with § 19.620 to cover the transfer in bond of spirits to the bonded premises of a distilled spirits plant pursuant to an approved application on TTB F 5100.16.

(b) *Disposition of the transfer record.* On completion of lading or transfer by pipeline, the consignor must retain one copy of the transfer record and one copy of any accompanying document and must forward the original transfer record and any accompanying document to the consignee. If the shipment is made by truck, the original transfer record and accompanying documents must accompany the shipment.

(c) *Multiple shipments.* As a general rule, a consignor must prepare a transfer record for each conveyance. However, a consignor may prepare a single transfer record that covers all packages of spirits shipped by truck on the same day to the same plant. In such a case, the consignor must prepare a shipment and delivery order for each shipment showing the number of packages, their serial numbers or other package identification, the name of the producer, warehouseman, or processor, and the serial numbers of any seals or other security devices applied to the truck. The shipping and delivery order must be properly authenticated by the consignor and must constitute a complete record of the spirits transferred in each truck each day. The consignor must retain a copy of each shipping and delivery order. After lading the last truck for the day, the consignor must retain one copy of the single transfer record and one copy of any accompanying document and forward the original single transfer record and accompanying document to the consignee.

(d) *Packages.* When a consignor transfers spirits in packages, the

consignor must weigh each package except in the following circumstances:

(1) When transferring the spirits in a secured conveyance;

(2) When the consignor has securely sealed the individual packages; or

(3) When the appropriate TTB officer waives this requirement upon a finding that there will be no jeopardy to the revenue.

(e) *Temporary serial numbers.* When packages are weighed at the time of shipment, the consignor must assign temporary serial numbers to the packages and show for each package its gross shipment weight on a package gauge record prepared in accordance with § 19.619. A copy of the package gauge record must accompany each original or copy of the transfer record.

(f) *Bulk conveyances and pipelines.* When a consignor transfers spirits, denatured spirits, or wines in bulk conveyances or by pipelines, the consignor must gauge the spirits, denatured spirits, or wines and record the quantity determined on the transfer record required under § 19.620 or § 24.309 of this chapter. The consignor must secure bulk conveyances of spirits or denatured spirits pursuant to § 19.441 of this part.

(26 U.S.C. 5212, 5362)

**§ 19.406 Reconsignment of in-bond shipments.**

A consignor may reconsign an in-bond shipment of spirits, denatured spirits, or wines prior to, or upon, arrival of the shipment at the premises of the consignee for any good faith reason. The consignor may reconsign the shipment to himself or to another consignee who is qualified to receive the shipment and has an adequate bond. In either case, an Application for Transfer of Spirits and/or Denatured Spirits in Bond on form TTB F 5100.16 must have been previously approved for the new consignee, except that an approved TTB F 5100.16 is not required for the transfer of wine. The bond of the new consignee will cover the shipment while in transit after reconsignment. When a consignor reconsigns a shipment, the consignor must prepare a new transfer record prominently marked with the word "Reconsignment". The consignor must also notify the original consignee that the transfer has been cancelled.

(26 U.S.C. 5212, 5362)

**§ 19.407 Consignee premises.**

(a) *General.* A proprietor who receives spirits, denatured spirits, or wines by transfer in bond is the "consignee" of the shipment for purposes of this part. Upon arrival of an in-bond shipment at



the consignee's premises or at the destination point specified in the carrier's transportation documents, the consignee must:

(1) Examine each conveyance to determine whether the securing devices, if any, are intact upon arrival. If the securing devices are not intact, the consignee must immediately notify the appropriate TTB officer before removal of any spirits from the conveyance;

(2) Determine, record, and report any losses as required by subpart R of this part;

(3) Acknowledge receipt of the shipment on the transfer record as required by § 19.621 or § 24.309 of this chapter and retain the original of the transfer record and any accompanying documents for his files. Retained copies of transfer records will become deposit records for purposes of this part; and

(4) Identify separately any spirits that were produced at an alcohol fuel plant. Those spirits may not be withdrawn, used, sold or otherwise disposed of for other than fuel use.

(b) *Packages.* When a consignee receives spirits in packages, the consignee must weigh each package. The consignee must record the receiving weight of each package on the accompanying package gauge record or on a list according to temporary package serial numbers prepared by the consignor. A copy of the package gauge record or list must remain with the original transfer record. However, the consignee is not required to weigh each package when:

(1) The transfer is made in a secured conveyance and the securing devices are intact on arrival;

(2) The individual packages were sealed by the consignor and are intact on arrival; or

(3) The requirement for weighing the packages at the consignor's premises has been waived under § 19.405(d)(3).

(c) *Bulk conveyances and pipelines.* When a consignee receives spirits, denatured spirits, or wines by bulk conveyance or by pipeline, the consignee must:

(1) Make a gauge and record the results on the transfer record in accordance with § 19.621 or § 24.309 of this chapter. However, the appropriate TTB officer may waive the gauging requirement for receipts by pipeline upon a finding that there will be no jeopardy to the revenue; and

(2) Ensure that each conveyance is empty and has been thoroughly drained.

(26 U.S.C. 5204, 5213, 5362)

## Receipt of Spirits From Customs Custody

### § 19.409 General.

A proprietor may withdraw from customs custody spirits imported or brought into the United States in bulk containers for transfer of those spirits without payment of tax to the bonded premises of the proprietor's distilled spirits plant. The proprietor may receive these spirits either in bulk containers or by pipeline. Spirits received on bonded premises under this section may be:

(a) Withdrawn for any purpose authorized by chapter 51 of the IRC in the same manner as domestic spirits; or

(b) Redistilled or denatured only at 185° or more of proof. For the requirements regarding transfers of bulk spirits from customs custody to the bonded premises of a distilled spirits plant, see subpart L of part 27 of this chapter.

(26 U.S.C. 5232)

### § 19.410 Age and fill date.

For purposes of this part, the age and fill date for spirits imported or brought into the United States will be:

(a) The claimed age, as shown on the documentation required under part 5 of this chapter; and

(b) The date that packages of spirits are released from customs custody or are filled on the bonded premises of a distilled spirits plant.

(26 U.S.C. 5201)

### § 19.411 Recording gauge.

(a) *Receipts into storage.* When a proprietor receives into the storage account packages of spirits from customs custody, the proprietor must use the last official gauge to compute and record the average content of the packages received in the storage records required under § 19.590. That gauge also will constitute the basis for entries on the package summary records required under § 19.591. If the last official gauge indicates a substantial variation in the contents of the packages, the proprietor must group the packages into lots according to their approximate contents and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(b) *Receipts into processing.* When a proprietor receives into the processing account packages of spirits from customs custody the proprietor must determine the proof gallons of spirits received in each package. The determination may be made by using the last official gauge.

(26 U.S.C. 5232)

## Marking Requirements for Imported Spirits

### § 19.414 Marks on containers of imported spirits.

(a) *General.* Except as provided in paragraph (c) of this section, when a proprietor receives imported bulk containers of spirits on bonded premises under § 19.409 or fills packages from imported bulk containers on the proprietor's bonded premises, each container or filled package must be marked with:

(1) The name of the importer;

(2) The country of origin of the spirits;

(3) The kind of spirits;

(4) In the case of filled packages, the package identification number as required under § 19.485 or the package serial number as required under § 19.490. Package identification numbers and package serial numbers must be preceded by the symbol "IMP";

(5) If the package is filled on bonded premises, the date of fill;

(6) The proof; and

(7) The proof gallons of spirits in the package.

(b) *Responsibility for marks.* Except as otherwise provided in paragraph (c) of this section, the proprietor who receives packages of imported spirits under § 19.409 is responsible for ensuring that the required marks are placed on the packages and for preparing the required deposit records.

(c) *Exception.* A proprietor is not required to place or ensure the placement of prescribed marks on packages when the spirits will be removed from the packages within 30 days after receipt at the distilled spirits plant. However, the proprietor must still assign package identification numbers or package serial numbers for use on deposit records and other transaction forms, records, or reports.

(26 U.S.C. 5206)

### § 19.415 Marks on containers of Puerto Rican and Virgin Islands spirits.

(a) *Packages from Puerto Rico.* When a proprietor receives packages of Puerto Rican spirits on bonded premises under the provisions of this subpart, the markings required under § 26.40 of this chapter will be acceptable in place of the markings required under § 19.414. However, the proprietor still must mark each package to show the date of fill as required under § 19.410, and must include on each package the words "Puerto Rican" or the abbreviation "P.R."

(b) *Packages from the Virgin Islands.* When a proprietor receives packages of Virgin Islands spirits on bonded premises under the provisions of this

subpart, the markings required under § 26.206 of this chapter will be acceptable in place of the markings required under § 19.414. However, the proprietor still must mark each package to show the date of fill as required under § 19.410, and must include on each package the words "Virgin Islands" or the abbreviation "V.I."

(c) *Portable bulk containers.* Portable bulk containers of Puerto Rican or Virgin Islands spirits that are filled on premises bonded under this part must be marked in accordance with § 19.484. In addition, those containers must be marked with the serial number of any approved formula under which they were produced and with the words "Puerto Rican" or the abbreviation "P.R." or "Virgin Islands" or the "V.I.", as applicable.

(d) *Cases of bottled alcohol.* Alcohol from Puerto Rico or the Virgin Islands that is bottled and cased on bonded premises must be marked as required by § 19.496. In addition, the words "Puerto Rican" or "Virgin Islands" or the abbreviation "P.R." or "V.I.", respectively, must precede the word "alcohol" designation on the cases.

(26 U.S.C. 5206, 5235)

### **Spirits Withdrawn Without Payment of Tax**

#### **§ 19.418 Authorized withdrawals without payment of tax.**

(a) A proprietor may withdraw spirits from bonded premises without payment of tax for:

- (1) Export, as authorized under 26 U.S.C. 5214(a)(4);
  - (2) Transfer to customs manufacturing bonded warehouses, as authorized under 19 U.S.C. 1311;
  - (3) Transfer to foreign trade zones, as authorized under 19 U.S.C. 81c;
  - (4) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309;
  - (5) Transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9);
  - (6) Use in wine production, as authorized under 26 U.S.C. 5373;
  - (7) Transfer to any university, college of learning, or institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a);
  - (8) Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10); or,
  - (9) Use on bonded wine cellar premises in the production of wine and wine products which will be rendered unfit for beverage use, as authorized under 26 U.S.C. 5362(d).
- (b) If a proprietor withdraws spirits for any of the purposes listed under

paragraphs (a)(1) through (a)(5) of this section, the proprietor must do so in accordance with the provisions of part 28 of this chapter.

(19 U.S.C. 1311);

(26 U.S.C. 5066, 5214, 5312, 5373)

#### **§ 19.419 Withdrawals of spirits for use in wine production.**

A proprietor may withdraw wine spirits without payment of tax for transfer in bond to a bonded wine cellar for use in wine production. The proprietor, as consignor, must prepare a transfer record in accordance with § 19.620. In addition, the proprietor must prepare a package gauge record in accordance with § 19.619 and must attach it to the transfer record, unless the wine spirits are already in packages and are being withdrawn on the production or filling gauge.

(26 U.S.C. 5214, 5373)

#### **§ 19.420 Withdrawals of spirits without payment of tax for experimental or research use.**

A scientific university, college of learning, or institution of scientific research qualified under § 19.35 may withdraw spirits from bonded premises without payment of tax for experimental or research use. In order to withdraw a specific quantity of spirits for experimental or research use, the qualified institution must file a letterhead application with, and receive written approval from, the appropriate TTB officer.

(26 U.S.C. 5312)

#### **§ 19.421 Withdrawals of spirits for use in production of nonbeverage wine and nonbeverage wine products.**

A proprietor may withdraw spirits without payment of tax for transfer to a bonded wine cellar for use in the production of nonbeverage wine and nonbeverage wine products in accordance with part 24 of this chapter. The proprietor, as consignor, must prepare a transfer record in accordance with § 19.620. In addition, the proprietor must prepare a package gauge record in accordance with § 19.619 and must attach it to the transfer record, unless the wine spirits are already in packages and are being withdrawn on the production or filling gauge.

(26 U.S.C. 5214)

### **Spirits Withdrawn Free of Tax**

#### **§ 19.424 Authorized withdrawals free of tax.**

A proprietor may withdraw spirits from bonded premises free of tax as provided in this chapter:

(a) Upon receipt of a signed photocopy of a permit to withdraw and use alcohol free of tax issued on form TTB F 5150.9 under part 22 of this chapter;

(b) Upon receipt of a signed photocopy of a permit to procure spirits free of tax for use of the United States or any governmental agency, any State, any political division of a State, or the District of Columbia for nonbeverage purposes as provided in 26 U.S.C. 5214(a)(2) issued on form TTB F 5150.33 under part 22 of this chapter;

(c) Upon receipt of a valid permit issued under this part to procure spirits by and for the use of the United States under the provisions of 26 U.S.C. 7510 for purposes other than those specified in paragraph (b) of this section;

(d) If the spirits are specially denatured—

(1) Upon receipt of a signed photocopy of a permit to procure specially denatured spirits issued on TTB F 5150.9 under part 20 of this chapter; or

(2) For export;

(e) If the spirits are completely denatured, for any lawful purpose; or

(f) If the spirits are contained in an article.

(26 U.S.C. 5214, 7510)

#### **§ 19.425 Withdrawal of spirits free of tax.**

When a proprietor ships tax-free spirits to a permit holder as provided under § 19.424, the proprietor must:

(a) Ship the spirits to the consignee designated in the permit;

(b) Ship the spirits in approved containers;

(c) Gauge each container, unless the spirits are in cases or are withdrawn based on the production or filling gauge;

(d) Prepare a package gauge record in accordance with § 19.619, and attach it to the record of shipment if the spirits are in packages that are to be gauged;

(e) Prepare a record of shipment (shipping invoice, bill of lading, or other document serving the same purpose) for each shipment and forward the original to the consignee as provided in § 19.625; and

(f) Secure all bulk conveyances as provided in § 19.441.

(26 U.S.C. 5214)

#### **§ 19.426 Withdrawal of spirits by the United States.**

(a) *Withdrawal for nonbeverage use—*

(1) *Permit required.* Agencies of the United States Government that wish to obtain either specially denatured spirits or spirits free of tax for nonbeverage purposes must apply for and receive a permit on form TTB F 5150.33 or must have a previously issued permit on ATF

Form 1444. TTB issues permits to Government agencies for:

(i) Withdrawal and use of specially denatured spirits under part 20 of this chapter;

(ii) Withdrawal and use of alcohol free of tax for nonbeverage purposes under part 22 of this chapter; and

(iii) Importation and use of alcohol free of tax for nonbeverage purposes under part 27 of this chapter.

(2) *Orders and shipments.* In order to obtain spirits under this section, the United States Government agency must forward a copy of a signed permit to the distilled spirits plant for the initial purchase. Later orders with the same plant may refer to that permit number. In the case of a Government agency holding a single permit for use by its subagencies, the copy of the signed permit must contain an attachment listing all subagencies authorized to obtain spirits under that permit. For each shipment that a proprietor makes to a Government agency under this section, the proprietor must prepare a record of shipment and forward the original to the Government agency as provided in § 19.625.

(b) *Withdrawal for beverage use.* Agencies of the United States Government that wish to obtain distilled spirits free of tax for beverage purposes under 26 U.S.C. 7510 must provide a proper purchase order signed by the head of the agency or an authorized designee. Each case of spirits withdrawn must bear a plain mark "For Use of the United States" in addition to the marks required by subpart S of this part. For each withdrawal under this paragraph, the proprietor must prepare a record containing the information required by § 19.611 for a record of tax determination and must mark this record "Free of Tax for Use of the United States."

(26 U.S.C. 7510);

(26 U.S.C. 5271, 5313)

**§ 19.427 Removal of denatured spirits and articles.**

(a) *Specially denatured spirits.* (1) Specially denatured spirits withdrawn by a proprietor free of tax under § 19.424(d) must be shipped in the type of containers authorized under subpart S to the consignee designated on the permit. Bulk conveyances used to transport specially denatured spirits must be secured as required by § 19.441, and the proprietor must prepare a record of shipment in accordance with § 19.625. If a proprietor withdraws specially denatured spirits for export or for transfer to a foreign trade zone for export or for storage pending export, the

provisions of part 28 of this chapter will apply to the withdrawal.

(2) A proprietor may transfer domestic specially denatured spirits to qualified users located in a foreign trade zone for use in the manufacture of articles under part 20 of this chapter. The "alcohol", as defined in part 20 of this chapter, that is contained in domestic specially denatured spirits must have been produced entirely in the United States or Puerto Rico.

(b) *Completely denatured alcohol.* No permit, application, or notice is required for the removal of completely denatured alcohol from bonded premises.

(c) *Samples of denatured spirits.* (1) A proprietor may take samples of denatured spirits free of tax that are necessary for the conduct of business. A proprietor may furnish samples of specially denatured spirits:

(i) To dealers in, and users of, specially denatured spirits in advance of sales; or

(ii) To applicants or prospective applicants for permits to use specially denatured spirits for experimental purposes or for use in preparing samples of a finished product for submission to TTB.

(2) A proprietor must maintain records to ensure that samples of specially denatured spirits furnished to each nonpermittee do not exceed 5 gallons per calendar year. However, a proprietor may furnish samples in excess of 5 gallons to a nonpermittee if the consignee has provided the proprietor with a letterhead application approved under § 20.252 of this chapter. The proprietor must retain the approved letterhead application on file as a part of the record of transaction. For each shipment of a sample over the 5 gallon limit, the proprietor must prepare a record of shipment and forward the original to the consignee as provided in § 19.625. Each such sample must bear a label showing the word "Sample", the words "Specially Denatured Alcohol" or "Specially Denatured Rum" as applicable, the formula number, and the proprietor's name, address, and plant number. The proprietor must maintain records of samples of less than 5 gallons as provided in § 19.616.

(d) *Articles.* A proprietor may remove articles from bonded premises in accordance with part 20 of this chapter. (19 U.S.C. 81c);

(26 U.S.C. 5214, 5271)

**§ 19.428 Reconsignment.**

(a) A consignor may reconsign a shipment of spirits or specially denatured spirits withdrawn free of tax under § 19.424. The shipment may be

reconsigned while in transit or upon arrival at the consignee's premises for any bona fide reason. The consignor may reconsign the shipment:

(1) To himself;

(2) To a proprietor for return to bonded premises under § 19.454; or

(3) To another consignee holding a valid permit issued under part 20 or 22 of this chapter.

(b) In the case of reconsignment to a proprietor for return to bonded premises under § 19.454, the distilled spirits plant proprietor who will return the spirits to bond must file a consent of surety on form TTB F 5000.18 to extend the terms of the operations or unit bond to cover the return of the spirits.

(c) When a consignor reconsigns a shipment, the consignor must cancel the initial record of shipment and prepare a new record of shipment marked "Reconsignment". The consignor must annotate the copies of the canceled record of shipment and the new record of shipment to cross-reference each other.

(26 U.S.C. 5201)

**Spirits Withdrawn on Production Gauge**

**§ 19.431 Withdrawal of spirits on production gauge.**

A proprietor may withdraw spirits from bonded premises for any lawful purpose based on the production gauge when it is made in accordance with § 19.289(b). Spirits may be withdrawn without payment of tax for export based on the production gauge when it is made under § 19.289(c). When spirits that are to be withdrawn on determination of tax on the original gauge are transferred in bond, all copies of the transfer record required by § 19.620 must be marked "Withdrawal on Original Gauge".

(26 U.S.C. 5204)

**Rules for Taking Samples of Spirits**

**§ 19.434 Spirits withdrawn from bonded premises.**

(a) *Laboratory samples.* A proprietor may withdraw spirits without payment of tax, or may withdraw wine spirits or brandy free of tax, to the proprietor's laboratory, to the laboratory of an affiliated or subsidiary corporation, or, if approved by the appropriate TTB officer, to a recognized commercial laboratory. The samples must be used only for testing or analysis to determine the quality or character of the finished product and must be withdrawn in the minimum amounts necessary for the purpose.

(b) *Customer samples.* If a bona fide purchase agreement exists that is

contingent upon quality approval, a proprietor may furnish to a prospective customer a sample of spirits not exceeding 1 liter for quality testing. A proprietor may furnish a sample not to exceed 1 liter to a prospective customer for quality testing in anticipation of a purchase agreement if the customer is authorized to receive bulk spirits for industrial use.

(c) *Research or development.* A proprietor may withdraw spirits without payment of tax for research or development testing, for testing of processes, systems, or materials, or for the testing of equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn must be limited to the amount reasonably necessary to conduct the test. If the test is to be conducted by someone other than the proprietor, the proprietor must obtain a written statement, executed by the consignee, agreeing to maintain records of the receipt, use, and disposition of all spirits received for purposes of the test. The statement must specify that records of operations will be available during regular business hours for inspection by TTB officers.

(d) *Conditions.* The following conditions apply to the withdrawal and testing of samples under this section:

(1) The spirits may not be used for consumer testing or other market analysis;

(2) The proprietor must maintain the records specified in § 19.616; and

(3) Remnants or residues of spirits not used during testing must be destroyed or returned to the bonded premises of the proprietor.

(e) *Liability for tax.* The proprietor must pay the tax on any samples of spirits withdrawn, used, or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost before use for a purpose authorized under this section, the proprietor must pay the tax or must file a claim for remission of tax liability in accordance with § 19.263.

(26 U.S.C. 5214, 5173)

#### **§ 19.435 Samples used on bonded premises.**

A proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises. The purposes, conditions, and limitations specified for samples under § 19.434 will also apply to samples used under this section.

(26 U.S.C. 5008)

#### **§ 19.436 Taxpayment of samples.**

When a proprietor is required to pay tax on samples under § 19.434(f), the proprietor may include the tax on the next semimonthly or quarterly tax return, as appropriate, if qualified to defer payment of tax. If a proprietor is not qualified to defer payment of tax, the proprietor must prepay the tax on form TTB F 5000.24. See subpart I of this part for rules regarding the payment of taxes.

(26 U.S.C. 5005, 5061)

#### **§ 19.437 Labels.**

(a) On each container of spirits withdrawn under § 19.434, the proprietor must affix a label showing the following information:

(1) The proprietor's name and plant number;

(2) The date withdrawn;

(3) The purpose for which withdrawn;

(4) The kind of spirits;

(5) The size and the proof of the sample, if known; and

(6) The name and address of the consignee, if the spirits are removed other than to the proprietor's adjacent or contiguous premises.

(b) The labeling prescribed under paragraph (a) of this section is not required when the sample container bears a label approved under part 5 of this chapter and subpart S of this part and the sample is removed from bonded premises to the general premises of the same distilled spirits plant or to any laboratory owned and operated by the proprietor of that distilled spirits plant.

(26 U.S.C. 5206, 5214, 5373)

#### **Securing Conveyances**

##### **§ 19.441 Securing of conveyances.**

(a) *Construction for securing.* When the securing of a conveyance is required by this part, the conveyance must be constructed so that all openings, including valves, may be closed and secured.

(b) *Approval of securing devices.* Seals, locks or other devices on conveyances used to transport taxpaid spirits, denatured spirits transferred in bond, or denatured spirits withdrawn free of tax do not require approval by TTB. On the other hand, all seals, locks, or devices used on conveyances in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, require approval by the appropriate TTB officer before use. However, cap seals at least three-fourths of an inch in diameter, ball-strap-type (railroad) seals with a strap at least five-sixteenths of an inch wide, and locking security cable with at least a 1/16-inch cable may be used on

conveyances without approval by TTB. Such seals must:

(1) Be made of durable materials;

(2) Bear the plant registration number or the name, or readily recognizable abbreviation of the name, of the proprietor;

(3) Bear a serial number, including letter prefixes or suffixes, which will not be repeated within the following 6-month period;

(4) Be durably and legibly marked; and

(5) Be constructed to show evidence of tampering.

(c) *Furnishing and affixing securing devices.* The proprietor must furnish and affix any seals, locks or other devices used on conveyances. However, TTB may require any conveyance in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, to be secured by a device furnished by TTB and affixed by a TTB officer. The securing of a conveyance will be done:

(1) As soon as the conveyance is loaded for shipment; and

(2) In such a manner that access to the contents of the conveyance cannot be gained without leaving evidence of tampering.

(26 U.S.C. 5206, 5682)

#### **Subpart Q—Return of Spirits to Bonded Premises and Voluntary Destruction**

##### **§ 19.451 Scope.**

The IRC allows a proprietor of a distilled spirits plant to return distilled spirits, denatured spirits, and articles to the bonded premises of that plant under certain conditions. This subpart covers the types of returns allowed, sets forth the procedures that the proprietor must follow when returning these products to bonded premises, and prescribes rules for voluntary destruction on or off bonded premises.

#### **Conditions for Return of Spirits to Bond**

##### **§ 19.452 Return of taxpaid spirits to bonded premises for destruction, denaturation, redistillation, reconditioning, or rebottling.**

(a) *Allowable returns.* A proprietor may return spirits to bonded premises if the spirits were taxpaid or tax determined by him, by another distilled spirits plant proprietor, or by an importer upon importation through U.S. Customs and Border Protection. However, consistent with section 5215(a) of the IRC the proprietor may return such spirits to bond only for one of the following reasons:

(1) Destruction, in accordance with § 19.459;

(2) Denaturation, in accordance with subpart O of this part;  
 (3) Redistillation, in accordance with subpart L of this part;  
 (4) Reconditioning; or  
 (5) Rebottling.  
 (b) *Dump and gauge of returned spirits.* The proprietor must immediately dump spirits returned to bonded premises under this section unless the spirits are returned in the sealed metal drums in which they were withdrawn. The proprietor must gauge spirits returned under this section upon their receipt. The proprietor may gauge spirits in bottles based upon the case markings and label information in accordance with § 19.286.  
 (c) *Claims for credit or refund of tax.* A proprietor may file a claim under § 19.264 for credit or refund of tax on spirits returned to bonded premises under this section. In addition to the information specified in § 19.264, a proprietor filing a claim for credit or refund of tax must have on file at the plant where spirits are returned to bond the following documentation for each lot of spirits returned:

(1) Documentation that establishes the amount of tax for which the claim for credit or refund is filed. If the spirits contain eligible wine or eligible flavors, the proprietor must have on file a copy of the record of tax determination as prescribed by § 19.611, or other documentation that establishes the rate of tax that was paid on the product. In lieu of establishing the actual effective tax rate of the product, the proprietor may claim a credit or refund based on the lowest effective tax rate applied to the product; and  
 (2) Credit memoranda or comparable financial records evidencing the return of each lot of spirits.  
 (d) *Applicability of Chapter 51 of the IRC.* All provisions of chapter 51 of the IRC and of this part that apply to spirits under TTB bond also apply to spirits when returned to bond under this section.  
 (26 U.S.C. 5008, 5010, 5201, 5207, 5215)  
**§ 19.453 Return of bottled spirits for relabeling or reclosing.**  
 A proprietor may return bottled distilled spirits to his bonded premises

for relabeling or reclosing. When bottled spirits are returned for relabeling or reclosing, the proprietor may not claim credit or refund of tax on the returned spirits, and no tax will be due on their subsequent removal. The proprietor must relabel or reclose the bottles immediately and must promptly remove the spirits from bonded premises. The provisions of § 19.363 apply to relabeling and reclosing performed under this section.  
 (26 U.S.C. 5215)

**§ 19.454 Other authorized returns to bonded premises.**

In addition to the returns to bonded premises specified in §§ 19.452 and 19.453, there are other permissible returns of distilled spirits products to a proprietor's bonded premises. These other products, the purposes for which they may be returned, and the conditions for their return are listed in the table below. All of these products must be gauged upon receipt.

Type of product	Purpose of return	Conditions
(a) SDA withdrawn free of tax under part 20 of this chapter.	(1) For redistillation ..... (2) For subsequent lawful withdrawal ...	To any DSP authorized to produce or process. To any DSP. The DSP proprietor must file a consent of surety, form TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(b) Recovered denatured spirits .....	(1) For restoration or redenuaturation ...	(i) To any DSP authorized to denature. (ii) If SDA needs to be redistilled, the DSP must be authorized to produce or process spirits. (iii) Returns must be in accordance with part 20 of this chapter.
(c) Recovered articles .....	(1) For restoration or redenuaturation ...	(i) To any DSP authorized to denature. (ii) If recovered articles need to be redistilled, the DSP must be authorized to produce or process spirits. (iii) Returns must be in accordance with part 20 of this chapter.
(d) Articles manufactured under part 20 of this chapter and spirits residues from manufacturing processes.	(1) For recovery by redistillation .....	To a DSP authorized to produce or process spirits.
(e) SDA withdrawn free of tax for export under part 28 of this chapter.	(1) For redistillation ..... (2) For subsequent lawful withdrawal ...	To any DSP authorized to produce or process. To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(f) Tax-free spirits withdrawn under part 22 of this chapter.	(1) For redistillation ..... (2) For subsequent lawful withdrawal ...	(i) To any DSP authorized to produce or process. (ii) To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(g) Recovered tax-free spirits withdrawn under part 22 of this chapter.	(1) For redistillation ..... (2) For restoration (not including redistillation).	(i) To any DSP authorized to produce or process. (ii) To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(h) Spirits withdrawn without payment of tax under part 28 of this chapter for export, for transfer to a customs bonded storage, manipulation, or manufacturing warehouse, for deposit in an FTZ, or for use on vessels or aircraft, and not so exported, transferred, deposited, or used.	(1) For redistillation .....	(i) For (1)—To any to DSP authorized to produce or process spirits.

Type of product	Purpose of return	Conditions
(i) Wine spirits withdrawn without payment of tax for use in wine production.	(2) For later lawful removal .....	(ii) For (2)—To the bonded premises from which withdrawn for later lawful removal. (iii) For (1) and (2)—Returns must be made in accordance with the provisions of part 28 of this chapter. (i) To any DSP.
(j) Spirits withdrawn without payment of tax for research, development, or testing.	(1) Any lawful purpose .....	(ii) The proprietor must obtain approval as provided in § 19.403. (iii) Removal of wine spirits from a winery must be in accordance with part 24 of this chapter. (i) To the DSP from which the spirits were withdrawn.
(19 U.S.C. 81(c), 26 U.S.C. 5001, 5062, 5066, 5214, 5215, 5223, 5273, 5373)	and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after the filing of the notice.	(2) Voluntary destruction carried out other than as provided in subpart Q of this part; (3) An unexplained shortage of bottled spirits.

**§ 19.455 Return of spirits withdrawn for export with benefit of drawback.**

(a) Subject to the provisions of § 28.197 through 28.199 of this chapter, whole or partial shipments of spirits withdrawn for export with benefit of drawback may be returned to:

(1) The bonded premises of the distilled spirits plant, pursuant to § 19.452; or

(2) To a wholesale liquor dealer or taxpaid storeroom.

(b) Claims for export drawback filed by proprietors on form TTB F 5110.30 which include the returned spirits shall be reduced by the amount of tax paid or determined on the returned spirits.

(26 U.S.C. 5215)

**§ 19.457 Receipt of spirits abandoned to the United States.**

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a distilled spirits plant for denaturation or for redistillation and denaturation, provided that the plant is authorized to denature or redistill and denature spirits. The proprietor must gauge the spirits upon receipt and must keep the spirits apart from all other spirits or denatured spirits until denatured.

(26 U.S.C. 5243)

**Rules for Voluntary Destruction**

**§ 19.459 Voluntary destruction.**

(a) *General.* A proprietor may voluntarily destroy spirits, denatured spirits, articles, or wines on bonded premises as provided in this section. There is no tax liability on spirits, denatured spirits, articles, or wines destroyed in accordance with this section.

(b) *Wine notice.* A proprietor may destroy wine held on bonded premises only after the proprietor has filed a notice of intent to destroy with the appropriate TTB officer stating the kind

and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after the filing of the notice.

(c) *Gauging.* A proprietor must gauge all spirits, denatured spirits, articles, or wines to be destroyed. The proprietor may establish the gauge of spirits in bottles on the basis of legible case markings and label information in accordance with § 19.286. The proprietor must individually count bottles in partial cases.

(d) *Destruction off bonded premises.* If a proprietor intends to remove spirits, denatured spirits, articles, or wines from bonded premises in order to destroy them at a location off bonded premises, the proprietor must file a consent of surety to cover the removal. When the destruction takes place off plant premises, the proprietor must comply with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor must record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.617.

(26 U.S.C. 5008, 5370)

**Subpart R—Losses and Shortages**

**§ 19.461 Losses and shortages in general.**

(a) *Allowable losses and shortages.* Except as otherwise provided in paragraph (b) of this section, TTB will not collect tax on spirits, denatured spirits, or wines that are lost, destroyed, or otherwise unaccounted for while in bond, and if the tax has already been paid, TTB will refund the tax.

(b) *Exceptions.* TTB will collect the tax in the case of:

(1) Theft, unless the appropriate TTB officer finds that the theft occurred without connivance, collusion, fraud or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or any employee or agent of any of them;

(2) Voluntary destruction carried out other than as provided in subpart Q of this part;

(3) An unexplained shortage of bottled spirits.

(c) *Burden of proof.* When it appears that a theft occurred, the burden of proof will be on the proprietor or other person liable for the tax to establish to the satisfaction of the appropriate TTB officer that the theft did not result from connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or any employee or agent of any of them.

(d) *Claims.* Claims for losses and shortages allowable under this section must be filed in accordance with the provisions of subpart J of this part.

(e) *Limitations.* TTB will abate, remit, credit, or refund taxes on spirits, denatured spirits, or wines lost by theft only to the extent that the claimant is not indemnified against, or recompensed for, the taxes paid or owed.

(26 U.S.C. 5008, 5370)

**§ 19.462 Determination of losses in bond.**

(a) *Times for determining losses.* A proprietor must determine at any of the following times whether a loss of spirits, denatured spirits, or wines has occurred:

(1) Each time a tank or bulk conveyance is emptied;

(2) Upon discovery of an accident or an unusual variation in a gauge; and

(3) When required to take a physical inventory.

(b) *Losses from theft, tampering, or unauthorized voluntary destruction.* Whenever any spirits, denatured spirits, or wines are lost or destroyed in bond, whether by theft, tampering, or unauthorized voluntary destruction, the proprietor may elect voluntarily to pay the tax on the quantity lost. If the proprietor does not elect to pay the tax, the proprietor must promptly report the loss or destruction to the appropriate

TTB officer. TTB may require that the proprietor file any claim for relief from the tax in accordance with § 19.263.

(c) *Missing packages.* When a proprietor cannot locate or otherwise account for any packages of spirits, denatured spirits, or wine recorded as deposited on bonded premises, the proprietor must promptly report that fact to the appropriate TTB officer. In such case the proprietor must either pay the tax on the lost spirits, denatured spirits, or wines or file a claim for relief from the tax in accordance with § 19.263.

(d) *Excessive in-transit losses.* A proprietor must promptly report excessive in-transit losses to the appropriate TTB officer. As a general rule, when spirits, denatured spirits, or wines are received in bond in bulk conveyances TTB will consider as excessive a loss that exceeds 1 percent of the quantity consigned. However, in the case of transcontinental transfers of wine in bond, TTB will consider as excessive only a loss in excess of 2 percent of the quantity of wine consigned.

(e) *Excessive storage losses.* A proprietor must pay the tax on excessive storage account losses of spirits unless the proprietor files a claim for remission in accordance with § 19.263 and TTB allows the claim under § 19.268. TTB will consider a storage account loss as excessive when the quantity of spirits lost during a calendar quarter from all storage tanks and stored bulk conveyances exceeds 1.5 percent of the total quantity contained in the tanks and stored bulk conveyances during the calendar quarter.

(26 U.S.C. 5008, 5370)

#### § 19.463 Loss of spirits from packages.

(a) *Tampering or theft.* The appropriate TTB officer may require that a proprietor pay the tax on any loss caused by tampering or theft of spirits from packages in storage unless the proprietor establishes to the satisfaction of the appropriate TTB officer that the loss was not due to connivance, collusion, fraud or negligence on the part of the proprietor. As a general rule, the tax will be assessed on the quantity of spirits that represents the difference between the quantity originally entered in the package and the quantity remaining after discovery of the tampering or theft. However, if the proprietor can show that the package had already sustained normal storage losses before the tampering or theft occurred, the proprietor may exclude the amount of the normal storage losses from the quantity to be taxed.

(b) *Alternative method of tax assessment.* If tampering or theft has occurred at a proprietor's plant and the proprietor has failed to use effective controls to prevent it, the appropriate TTB officer may use an alternative to the general method of tax assessment specified in paragraph (a) of this section. In this case, the appropriate TTB officer may assess on each package showing evidence of tampering or theft an amount equal to the tax on 5 proof gallons of spirits.

(26 U.S.C. 5006)

#### § 19.464 Losses after tax determination.

If a proprietor sustains a loss of spirits after tax determination but prior to completion of physical removal of the spirits from bonded premises, the proprietor may file a claim in accordance with subpart J of this part.

(26 U.S.C. 5008)

#### § 19.465 Shortages of bottled spirits.

(a) *Determination of shortage.* The determination of whether an unexplained shortage of bottled distilled spirits exists must be made by comparing the spirits recorded as being on hand to either the results of the physical inventory required by § 19.372 or the results of any other complete physical inventory taken by the proprietor. When the recorded quantity is greater than the quantity determined by physical inventory, the difference is an unexplained shortage. The proprietor must adjust its records to reflect the results of the physical inventory.

(b) *Payment of tax on shortage.* A proprietor must pay the tax on any unexplained shortage of bottled distilled spirits:

(1) Immediately on a prepayment return on form TTB F 5000.24, Excise Tax Return; or

(2) On a deferred payment return on TTB F 5000.24 for the period during which the shortage was determined.

(26 U.S.C. 5008)

### Subpart S—Containers and Marks

#### § 19.471 General.

The proprietor of a distilled spirits plant must comply with the container and marking requirements that apply to both industrial and nonindustrial spirits. This subpart covers those requirements. For the requirements that apply to articles made with denatured spirits, see part 20 of this chapter. For the requirements that apply to wine, see part 24 of this chapter.

(26 U.S.C. 5206)

#### § 19.472 Need to determine use of spirits—industrial or nonindustrial.

Many of the container and marking requirements set forth in this subpart are based on the intended use of the spirits, that is, whether they are for “industrial” or “nonindustrial” use. For purposes of this subpart, the terms “industrial” use and “nonindustrial” use refer to the uses specified in paragraphs (a) and (b) of this section.

(a) *Industrial use.* The word “industrial” when used with reference to the use of spirits has the same meaning as in §§ 1.60 and 1.62 of this chapter. Those uses are as follows:

(1) Free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes;

(2) Free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale—

(i) For the use of any educational organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning;

(ii) For any laboratory for use exclusively in scientific research;

(iii) For use at any hospital, blood bank, or sanitarium (including use in making analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(iv) For the use of any clinic operated for charity and not for profit (including use in compounding of bona fide medicines for treatment outside of such clinics of patients thereof);

(3) Free of tax, after denaturation of such spirits in the manner prescribed by law for—

(i) Use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(ii) Any other use in the arts and industries (except for uses prohibited by 26 U.S.C. 5273 (b) or (d)) and for fuel, light, and power; and

(4) The use of distilled spirits for experimental purposes and in the manufacture of—

(i) Medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists;

(ii) Toilet preparations;

(iii) Flavoring extracts, syrups, or food products; or

(iv) Scientific, chemical, mechanical, or industrial products, provided such products are unfit for beverage use.

(b) *Nonindustrial use.* The word “nonindustrial” when used with reference to the use of spirits refers to any use not listed as an “industrial” use in paragraph (a) of this section. Nonindustrial uses include the following:

- (1) For beverage purposes;
- (2) In the manufacture, rectification, or blending of alcoholic beverages; or in the preparation of food or drink by a hotel, restaurant, tavern, or similar establishment; or as a medicine; and
- (3) Distilled spirits in containers with a capacity of 1 wine gallon or less, other than anhydrous alcohol and alcohol that may be withdrawn from bond free of tax.

(26 U.S.C. 5206, 5301)

### Requirements for Containers

#### § 19.473 Authorized containers.

(a) *General.* A proprietor may only use containers that are authorized under this part for containing, storing, transferring, conveying, removing, or withdrawing spirits or denatured spirits.

(b) *Approval of other containers.* The appropriate TTB officer may approve the use of another type of container for a particular purpose in place of a type of container specifically authorized in this part for that purpose if the use of that container:

(1) Will provide protection to the revenue equal to or greater than that provided by the authorized container; and

(2) Will not hinder the effective administration of this part.

(c) *Approval of other container materials.* The appropriate TTB officer may approve the use of a container made of a material other than one prescribed in this subpart if the prescribed material is unsuitable for the intended purpose. If the appropriate TTB officer approves another material for a container, the approval may also specify how the container must be constructed, protected, marked, and used.

(26 U.S.C. 5002, 5206, 5212, 5213, 5214, 5301.)

#### § 19.474 Spirits for nonindustrial use.

(a) *Containers.* A proprietor may fill spirits for nonindustrial use into packages or into other containers that are filled during processing operations, if consistent with the provisions of part 5 of this chapter.

(b) *Bottles and labels.* The provisions of subpart T of this part and part 5 of this chapter govern the liquor bottles and labels that a proprietor must use in bottling spirits for nonindustrial domestic use.

(c) *Cases.* If spirits for nonindustrial use are in containers with a capacity of one gallon or less the proprietor must place the containers in cases constructed to afford reasonable protection against breakage.

(26 U.S.C. 5206, 5212, 5301)

#### § 19.475 Spirits for industrial use.

(a) *Containers.* A proprietor may fill denatured spirits or other spirits for industrial use into suitable containers. The proprietor must ensure that all containers for spirits that will be used in food products comply with applicable U.S. Food and Drug Administration health and safety laws and regulations.

(b) *Encased containers.* A proprietor may encase unlabeled containers of denatured spirits and other spirits for industrial use in wood, fiberboard or similar material if:

(1) The cases are constructed so that the surface, including the opening of the container, is not exposed;

(2) Required marks are applied to an exterior surface of the case;

(3) The case is constructed so that the portion containing marks will remain attached to the inner container until all the contents have been removed; and

(4) A statement reading, “Do not remove inner container until emptied” or a statement of similar meaning appears on the portion of the case bearing the marks.

(c) *Cases.* With the exception of encased containers covered in paragraph (b) of this section, if the containers for denatured spirits and spirits for industrial use have a capacity of not more than 1 gallon, the proprietor must place the containers in cases that provide reasonable protection against breakage.

(26 U.S.C. 5206, 5301)

#### § 19.476 Packages.

A proprietor may use packages on bonded premises for original entry of spirits, and for packaging from tanks, storing, transferring in bond, and withdrawing spirits and denatured spirits from bonded premises. Packages must be constructed so as to be capable of secure closure.

(26 U.S.C. 5206)

#### § 19.477 Use of bulk conveyances.

If a bulk conveyance meets the construction requirements of § 19.478 or is approved under § 19.473(b), a proprietor may use the bulk conveyance on bonded premises for the original entry of spirits, and for filling from tanks, storing, transferring in bond, and withdrawing taxpaid spirits and

denatured spirits. A proprietor may use such a bulk conveyance to withdraw spirits free of tax, in accordance with the provisions of this part, for use of the United States or to a specified consignee if so authorized by the appropriate TTB officer under § 19.473(b). A proprietor may also use such a bulk conveyance to withdraw spirits without payment of tax, in accordance with the provisions in this part, for any one of the following purposes:

(a) Export, as authorized under 26 U.S.C. 5214(a)(4);

(b) Transfer to customs manufacturing bonded warehouses, as authorized under 19 U.S.C. 1311;

(c) Transfer to foreign trade zones, as authorized under 19 U.S.C. 81c;

(d) Transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9); or

(e) Use in wine production, as authorized under 26 U.S.C. 5373.

(26 U.S.C. 5206)

#### § 19.478 Construction requirements for bulk conveyances.

(a) *Construction.* The following standards apply to bulk conveyances authorized by this part:

(1) If the conveyance consists of two or more compartments, each compartment must be constructed or arranged so that the emptying of any compartment does not provide access to the contents of any other compartment;

(2) The conveyance (or in the case of compartmented conveyances, each compartment) must be arranged so that it can be completely drained;

(3) Each tank car or tank truck must have permanently and legibly marked thereon its number, its capacity in wine gallons, and the name or symbol of its owner;

(4) If the conveyance consists of two or more compartments, each compartment must be identified by a number and the capacity in wine gallons of each shall be marked thereon;

(5) The conveyance must have a route board or other suitable device for carrying required marks or brands; and

(6) Calibrated charts, showing the capacity of each compartment in wine gallons for each inch of depth, must be available for use in measuring the contents of each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, a proprietor must examine it to verify that it meets the requirements of this section or of an approval under § 19.473(b) and that it is otherwise suitable for receiving the spirits or denatured spirits. A proprietor must refrain from using, or discontinue use of, any conveyance



found by it or by the appropriate TTB officer not to meet the applicable requirements.

(26 U.S.C. 5206, 5212, 5213, 5214)

**§ 19.479 Restrictions on dispositions of bulk spirits.**

(a) *Bulk spirits for nonindustrial use.* A proprietor may sell or dispose of spirits for nonindustrial use in containers holding more than one wine gallon only to the persons and for the purposes specified in § 1.80 of this chapter.

(b) *Bulk spirits for industrial use.* If a proprietor withdraws spirits (other than alcohol or neutral spirits) from bond in containers holding more than one wine gallon for industrial use, the proprietor must ship or deliver the spirits directly to the user of the spirits as provided in § 1.95 of this chapter.

(26 U.S.C. 5201)

**Marking Requirements for Spirits**

**§ 19.482 General.**

A proprietor must mark, identify, and label all containers of spirits or denatured spirits as provided in this part. For information regarding liquor bottle label requirements, see subpart T of this part and part 5 of this chapter.

(26 U.S.C. 5204, 5206)

**§ 19.483 Specifications for marks.**

(a) *Basic requirements.* A proprietor must place the marks prescribed by this subpart on cases, encased containers, and packages of spirits and denatured spirits so that they are:

- (1) Of adequate size to be easily read;
- (2) Of a color in distinct contrast to the color of the background;
- (3) Legible; and
- (4) Durably affixed.

(b) *Use of labels.* A proprietor may use labels as the means for applying prescribed marks if the labels meet the requirements of paragraph (a) of this section.

(c) *Location.* A proprietor must place the prescribed marks on one side of the case or encased container, or on the head of the package.

(26 U.S.C. 5206)

**§ 19.484 Marks on packages filled in production or storage.**

(a) *Packages filled in production or storage.* Except as otherwise provided in this part, a proprietor must mark packages of spirits filled in production or storage with:

- (1) The name of the producer, or the producer's trade name, in accordance with paragraph (b) of this section;
- (2) The distilled spirits plant number of the producer, such as "DSP-KY-708";

(3) The kind of spirits or, in the case of distillates removed under § 19.307, the kind of distillate such as "Grape Distillate" or "Peach Distillate";

(4) The package identification number;

(5) "BSA" or "OC" when spirits are treated with caramel (burnt sugar) or oak chips, as the case may be;

(6) The rated capacity of the package in gallons shown as "RC-G"; and

(7) The name or trade name and the plant number of the packaging proprietor in place of the name or trade name and plant number of the producer if packages of spirits of 190° or more of proof are filled by a proprietor other than the producer.

(b) *Real or trade names.* The producer's or other proprietor's real name, or the authorized trade name used in accordance with § 19.94 at the time of production, may be placed on any package filled at the time of the production gauge, or at the time of the original packaging of the spirits in wood when, as provided in § 19.305, the spirits were not filled into wooden packages at the time of production gauge. When spirits have been mingled in accordance with § 19.326, the proprietor may use only a producer name associated with any portion of the mingled spirits on packages filled with such mingled spirits.

(26 U.S.C. 5206)

**§ 19.485 Package identification numbers in production and storage.**

(a) *General.* A proprietor must mark with a lot identification number each package of spirits filled during production or storage operations. The lot identification number must show when the package was filled and must consist of, in order, the following:

- (1) The last two digits of the calendar year;
- (2) An alphabetical designation for the month from "A" through "L", representing, in order, January through December;
- (3) Two digits corresponding to the day of the month; and

(4) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix sequence starting with "A" representing the second lot, with "B" representing the third lot, and so forth. For example: the first three lots filled into packages on January 2, 2002, would be identified as "02A02", "02A02A", and "02A02B".

(b) *Packages constituting a lot.* Packages of spirits, including any remnant package, received from customs custody or filled during any one day will receive the same lot

identification number, subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantity by weight or other measurement method prescribed in § 19.289;

(2) They are filled with spirits of the same kind and same proof;

(3) If they are filled with mingled spirits, the mingling was conducted in accordance with § 19.326; and

(4) In the case of spirits imported or brought into the United States, they are filled with imported spirits, Puerto Rican spirits or Virgin Island spirits, as applicable.

(c) *Serial numbers.* At the time of filling, receipt on bonded premises, or withdrawal from bond, the appropriate TTB officer may require serial numbers on packages of spirits within the same lot in conjunction with the lot identification number. The proprietor must assign temporary serial numbers to packages for control purposes when they are transferred in bond in an unsecured conveyance or gauged after tampering within the storage account.

(26 U.S.C. 5206)

**§ 19.486 Change of packages in storage.**

When a proprietor transfers spirits from one package to another as permitted in § 19.325, the proprietor must give the new package the same package identification number and marks as the original package. The proprietor must also prepare and sign a label to be affixed to the head of each new package. The label must be in the following form:

The spirits in this \_\_\_\_\_ [kind of cooperage: barrel or drum], package identification No. \_\_\_\_\_, were transferred from a \_\_\_\_\_ [kind of cooperage: barrel or drum], on \_\_\_\_\_ [Date], \_\_\_\_\_

[Proprietor]

(26 U.S.C. 5206)

**§ 19.487 Kind of spirits.**

(a) *Designation.* The designations of kind of spirits required for packages filled on bonded premises must be consistent with the classes and types of spirits set forth in part 5 of this chapter subject to the following exceptions or conditions:

- (1) A proprietor may designate as "Alcohol" spirits distilled at more than 160° proof, which lack the taste, aroma, and other characteristics generally attributed to whiskey, brandy, rum, or gin, and which are substantially neutral in character. When alcohol so designated is withdrawn on

determination of tax, the designation must consist of the word "Alcohol" preceded or followed by a word or phrase that describes the material from which the alcohol was produced;

(2) The designation for vodka, neutral spirits, or gin must include a word or phrase that describes the material from which the spirits were produced;

(3) A proprietor may designate as "Spirits", preceded or followed by a word or phrase that describes the material from which the spirits were produced, those distilled spirits that are distilled at less than 190° proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin. However, the proprietor may not designate such spirits as "Spirits grain" or "Grain spirits";

(4) A proprietor must designate spirits distilled from fruit at or above 190° proof, if intended for use in wine production, as "Neutral Spirits—Fruit", preceded or followed by the name of the fruit from which the spirits were produced;

(5) A proprietor may designate as "Whisky" spirits distilled at not more than 160° proof from a fermented mash of not less than 51 percent rye, corn, wheat, malted barley, or malted rye grain, packaged in reused cooperage, provided that the designation is further qualified with the words "Distilled from rye mash" (or bourbon, wheat, malt, or rye malt mash, as the case may be). However, spirits designated as "Whisky" must, if distilled from a fermented mash of not less than 80 percent corn, carry the designation "Corn Whisky."

(b) *Change of designation.* After written application to, and approval of, the appropriate TTB officer, a proprietor may at any time before their withdrawal from bonded premises, change the original designation for spirits to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If a proprietor proposes to produce spirits for which a designation has not been prescribed in this section or in part 5 of this chapter, the proprietor must first make written application to the appropriate TTB officer for a designation for such spirits, and the proprietor must then designate the spirits accordingly.

(d) *Spirits for nonindustrial use.* A proprietor may not treat the provisions of this section as constituting authorization to apply designations to spirits withdrawn for nonindustrial use if those designations do not conform to the requirements of part 5 of this chapter.

(26 U.S.C. 5206)

#### § 19.488 Marks on packages filled in processing.

(a) *Packages filled in processing.* Except as otherwise provided in this part, a proprietor must mark packages of spirits filled in processing with:

(1) The name of the processor, or the processor's trade name;

(2) The distilled spirits plant number of the processor, such as "DSP-KY-708";

(3) The kind of spirits in accordance with § 19.487 or, in the case of an intermediate product, the product name shown on form TTB F 5110.38, Formula for Distilled Spirits Under the Federal Alcohol Administration Act;

(4) The serial number or lot identification number, in accordance with § 19.490, and the date of filling;

(5) The proof of the spirits; and

(6) The serial number of the formula if it was manufactured under an approved formula.

(b) *Real or trade names.* The proprietor's real name or any trade name used in accordance with § 19.94 may be placed on any package filled with spirits during processing operations.

(26 U.S.C. 5206)

#### § 19.489 Marks on cases filled in processing.

(a) *Mandatory marks.* Except for cases marked in accordance with § 19.496, a proprietor must mark in accordance with § 19.483 the following information on each case of spirits filled in processing:

(1) Serial number in accordance with § 19.490;

(2) Kind of spirits in accordance with the classes and types of spirits set forth in part 5 of this chapter;

(3) The distilled spirits plant number where bottled;

(4) Date filled;

(5) Proof; and

(6) Liters or proof gallons.

(b) *Export marks.* In addition to the marks referred to in paragraph (a) of this section, the proprietor must include the marks required by part 28 of this chapter on cases removed for export, for transfer to any customs bonded warehouses, for transfer to foreign trade zones, or for use as supplies on certain vessels and aircraft.

(c) *Other marks.* A proprietor may include other marks on cases filled in processing in addition to the marks prescribed under this section. Any additional marks must not interfere with, or detract from, the marks prescribed in this section. The proprietor may include other marks such as:

(1) The name or trade name, and the location if desired, of the bottler, displayed with the word "Bottler";

(2) For products distilled or processed by the proprietor, the proprietor's name or trade name, and the location of the distilled spirits plant, if desired, displayed with the words "Distiller" or "Processor", as applicable;

(3) For products imported and bottled by the proprietor, the words "Imported and Bottled By", followed by the proprietor's name or trade name and location of the distilled spirits plant if desired;

(4) For products bottled for a dealer, the words "Bottled For", followed by the name of that dealer;

(5) Any material required by Federal or State law and regulations; and

(6) Labels or data describing the contents for commercial identification or accounting purposes or indicating payment of State or local taxes.

(26 U.S.C. 5066, 5206)

#### § 19.490 Numbering of packages and cases filled in processing.

(a) *Packages of spirits and denatured spirits filled during processing operations.* When a proprietor fills packages of spirits and denatured spirits during processing, the proprietor must identify the packages consecutively beginning with "1" and continuing the series until the number "1,000,000" is reached, except that any series of such numbers already in use may be continued to that limit. When the identification in any series reaches "1,000,000", the proprietor may begin a new series with "1" but must add an alphabetical prefix or suffix to the new series number. For example, the first identifier in the second series of 1,000,000 packages filled might be "1A" or "A1".

(b) *Cases containing bottles or other containers of spirits and denatured spirits.* When a proprietor fills cases containing bottles or other containers of spirits and denatured spirits during processing, the proprietor must identify the cases consecutively beginning with "1" and continuing the series until the number "1,000,000" is reached, except that any series of such numbers already in use may be continued to that limit. When the identification in any series reaches "1,000,000", the proprietor may begin a new series with "1". This series of identifiers for cases containing bottles or other containers must be distinct from the series of serial numbers required for packages under paragraph (a) of this section.

(c) *Additional identification.* A proprietor may establish separate series of identifiers, distinguished from each

other by the use of alphabetical prefixes or suffixes, to identify the size of bottles, the brand names, or other information, on written notice to the appropriate TTB officer. The proprietor must identify remnant cases by placing the identifier of the last full case followed by the letter "R" on the remnant case. When there is a change in the name, or trade name of the proprietor, all series in use may be continued. However, if there is a change in proprietorship, a new series must be commenced.

(d) *Alternative marking for spirits for industrial use.* A proprietor may mark packages and cases of spirits for industrial use, including denatured spirits, filled in processing with the lot identification numbers specified in § 19.485 instead of using the identifiers specified in paragraphs (a), (b) and (c) of this section.

(26 U.S.C. 5206)

**§ 19.491 Marks on containers of specially denatured spirits.**

(a) *General.* A proprietor must mark or label each package, case, or encased container of specially denatured spirits filled on bonded premises to show:

- (1) The quantity in gallons;
- (2) The serial number or lot identification number;
- (3) The plant number of the proprietor;
- (4) The designation or abbreviation of the specially denatured spirits by kind (alcohol or rum);
- (5) The applicable formula number; and
- (6) The proof of the spirits, if they were denatured at other than 190° proof.

(b) *Bottles.* A proprietor must mark or label each bottle to show the information prescribed in paragraphs (a)(1), (3), (4), (5), and (6) of this section.

(c) *Alternate formulations.* When spirits are denatured under a formula authorizing a choice of types and quantities of denaturants, the proprietor must mark the container or case to show the actual types and quantities of denaturants used.

(26 U.S.C. 5206)

**§ 19.492 Marks on containers of completely denatured alcohol.**

Except in the case of completely denatured alcohol transported by pipelines and bulk conveyances, a proprietor must mark each container of completely denatured alcohol on the head of the package or on the side of the can or carton with:

- (a) The name of the proprietor who filled the containers;
- (b) The plant number where the container was filled;

(c) The container's contents in wine gallons;

(d) The apparent proof;

(e) The words "Completely Denatured Alcohol"; and

(f) The applicable formula number.

(26 U.S.C. 5206)

**§ 19.493 Caution label for completely denatured alcohol.**

A proprietor must place a label containing the words "Completely Denatured Alcohol" and the statement "Caution—contains poisonous ingredients" on each container of completely denatured alcohol containing five gallons or less that is sold or offered for sale. The label must be written in plain, legible letters. The proprietor may print the name and address of the denaturer on such label, but may not include any other nonessential matter on the label without approval from the appropriate TTB officer. The word "pure" may not appear on the label or the container.

(26 U.S.C. 5206)

**§ 19.494 Additional marks on portable containers.**

(a) In addition to the other marks prescribed in this part, a proprietor must mark portable containers of spirits or denatured spirits (other than bottles enclosed in cases) that will be withdrawn from the bonded premises as follows:

(1) Without payment of tax, for export, for transfer to customs manufacturing bonded warehouses, for transfer to foreign trade zones, or as supplies for certain vessels and aircraft, in accordance with the provisions in part 28 of this chapter; or

(2) If tax-free, with the word "Tax-Free."

(b) A proprietor may show other optional information such as brand or trade name; a caution notice, or other information required by Federal, State, or local law or regulations; wine or proof gallons; and plant control data. However, any such mark must not conceal, obscure, interfere with, or conflict with the markings required by this subpart.

(26 U.S.C. 5206)

**§ 19.495 Marks on bulk conveyances.**

(a) A proprietor must securely attach a label identifying each conveyance or compartment to the route board, or to another equivalent device, for each bulk conveyance used to transport spirits or denatured spirits setting forth the following information:

(1) The name, plant number, and location of the consignor;

(2) The name, distilled spirits plant number, permit number, or registry number (as applicable), and the location of the consignee;

(3) The date of shipment;

(4) The quantity (proof gallons for spirits, wine gallons for denatured spirits); and

(5) The formula number for denatured spirits.

(b) If the conveyance is accompanied by documentation containing the information specified in paragraph (a) of this section, the proprietor is not required to label each conveyance or compartment.

(c) Export shipments must conform to the requirements of part 28 of this chapter.

(26 U.S.C. 5206)

**§ 19.496 Cases of industrial alcohol.**

(a) *Mandatory marks.* A proprietor must mark each case and each encased container of alcohol bottled for industrial use under the provisions of subpart N of this part to show the following information:

- (1) The designation "Alcohol";
- (2) The serial number or lot identification number;
- (3) The distilled spirits plant number of the proprietor;
- (4) The proof;
- (5) The proof gallons;
- (6) The designation "Tax-Free"; and
- (7) Any information required by part 28 of this chapter, for cases that are withdrawn for export, transferred to customs bonded warehouses, transferred to foreign trade zones, or are for use on vessels and aircraft.

(b) *Other marks.* A proprietor may mark cases of industrial alcohol with other marks, provided that they do not interfere with, or detract from, mandatory case marks in the manner permitted under § 19.489.

(26 U.S.C. 5206, 5235)

**§ 19.497 Obliteration of marks.**

Except as otherwise provided in § 19.487(b), the marks required to be placed on any container or case under this part must not be destroyed or altered before the container or case is emptied.

(26 U.S.C. 5206)

**§ 19.498 Relabeling and reclosing off bonded premises.**

The proprietor of a distilled spirits plant may relabel, affix brand labels, or reclose bottled taxpaid spirits on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the proprietor's distilled spirits plant,

provided that the wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the distilled spirits plant. If products relabeled under this section were originally bottled by another proprietor, the relabeling proprietor must have on file a statement from the original bottler consenting to the relabeling.

(26 U.S.C. 5201)

**§ 19.499 Authorized abbreviations to identify marks.**

In addition to the other abbreviations and symbols authorized under this part for use in marking containers, a proprietor may use the following abbreviations to identify the following marks:

Mark	Abbreviation
Completely Denatured Alcohol .....	CDA
Gallon or Wine Gallon .....	WG
Gross Weight .....	G
Proof .....	P
Specially Denatured Alcohol .....	SDA
Specially Denatured Rum .....	SDR
Tare .....	T
Tax Determined .....	TD
Wine Spirits Addition .....	WSA

(26 U.S.C. 5206)

**Subpart T—Liquor Bottle, Label, and Closure Requirements**

**Authorized Liquor Bottles**

**§ 19.511 Bottles authorized.**

Each liquor bottle for nonindustrial distilled spirits for domestic use must conform to a bottle size specified in the standards of fill set forth in subpart E of part 5 of this chapter. This rule applies to liquor bottles intended for distribution in both interstate and intrastate commerce.

(26 U.S.C. 5301)

**§ 19.512 Bottles not constituting approved containers.**

A proprietor may not use any liquor bottle that the appropriate TTB officer finds is misleading within the meaning of § 5.46 of this chapter. Misleading liquor bottles do not constitute approved containers for the purposes of this part, and a proprietor may not use them for packaging distilled spirits for domestic purposes.

(26 U.S.C. 5301)

**§ 19.513 Distinctive liquor bottles.**

(a) *Application.* A proprietor must submit form TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval, to the appropriate TTB officer in order to

obtain approval to use domestic liquor bottles of distinctive shapes or designs. The proprietor must 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 proprietor must affix a readily legible photograph (showing both front and back of the bottle) to the front of each copy of TTB F 5100.31 along with the label(s) to be used on the bottle. The proprietor must submit to TTB an actual bottle or accurate model only when specifically requested to do so.

(b) *Approval.* The appropriate TTB officer will approve a distinctive liquor bottle on a properly completed TTB F 5100.31 if the bottle is found to:

- (1) Meet the requirements of part 5 of this chapter;
- (2) Be distinctive;
- (3) Be suitable for its intended purpose;
- (4) Not jeopardize the revenue; and
- (5) Be not misleading to the consumer.

(c) *Retention.* A proprietor must keep on file at his premises a copy of the complete approved TTB F 5100.31 for the distinctive liquor bottle.

(d) *Cross reference.* For procedures regarding issuance, denial and revocation of distinctive liquor bottle approvals, as well as appeal procedures, see part 13 of this chapter.

(26 U.S.C. 5301)

**Labeling Requirements**

**§ 19.516 Certificate of label approval or exemption.**

A proprietor must obtain a certificate of label approval or an exemption from label approval under part 5 of this chapter on form TTB F 5100.31 for any label that the proprietor will use on bottles of spirits for domestic use. Upon request by the appropriate TTB officer, the proprietor must provide evidence of label approval, or of exemption from label approval, for a label used on a bottle of spirits for domestic use. For procedures regarding the issuance, denial and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see part 13 of this chapter.

(26 U.S.C. 5201)

**§ 19.517 Statements required on labels under an exemption from label approval.**

If a proprietor bottles spirits for domestic use under a certificate of exemption from label approval on form TTB F 5100.31, the following information must appear on the label used on the bottle, in the manner indicated:

(a) *Brand name.* The brand name on the label must conform to the requirements of § 5.34 of this chapter;

(b) *Kind.* The class and type of the spirits identified on the label must conform to the requirements of § 5.35 of this chapter;

(c) *Alcohol content.* The alcohol content on the label must conform to the requirements of § 5.37(a) of this chapter;

(d) *State of distillation.* In the case of whisky, the state of distillation statement on the label must conform to the requirements of § 5.36(d) of this chapter;

(e) *Net contents.* The label must show the net contents, unless the statement of net contents is permanently marked on the side, front, or back of the bottle;

(f) *Name and address of bottler.* The name and address of the bottler must conform to the requirements of § 19.518;

(g) *Age of whisky containing no neutral spirits.* In the case of whisky containing no neutral spirits, statements of age and percentage by volume on the label must conform to the requirements of § 5.40 of this chapter;

(h) *Age of whisky containing neutral spirits.* In the case of whisky containing neutral spirits, the label must state the age of the whisky or whiskies and the respective percentage by volume of whisky or whiskies and neutral spirits in accordance with § 5.40 of this chapter;

(i) *Age of brandy.* In the case of brandy aged for a period of less than two years, the label must state the age.

(j) *Presence of neutral spirits or coloring, flavoring, or blending material.* The label must indicate the presence of neutral spirits or coloring, flavoring, or blending material in accordance with § 5.39 of this chapter; and

(k) *Country of origin.* Labels of imported spirits must state the country of origin in substantially the following form: "Product of \_\_\_\_\_," with the blank filled in with the name of the country of origin.

(26 U.S.C. 5201)

**§ 19.518 Name and address of bottler.**

In setting forth the name and address of the bottler required by § 19.517(f), the label must contain the words "Bottled by", "Packed by", or "Filled by" followed immediately by the name (or trade name) of the bottler and the place where the bottling takes place. If the bottler is the proprietor of more than one distilled spirits plant engaged in bottling operations, the label may include the addresses of all such plants immediately following the name (or trade name) of the bottler. The following additional rules apply to name and address labeling under this section:

(a) Where distilled spirits are bottled by or for the distiller of the spirits, the label may state, in lieu of the words "Bottled by", "Packed by", or "Filled by", followed by the bottler's name (or trade name) and address or addresses, the words "Distilled by", followed immediately by the name (or trade name) under which the particular spirits were distilled, or by any trade name shown on the distiller's permit covering the premises where the particular spirits were distilled, and the address (or addresses) of the distiller;

(b) Where "straight whiskies" of the same type produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and are subsequently bottled and labeled as "straight whisky", that "straight whisky" must be labeled as provided in the introductory paragraph of this section. However, where that combined "straight whisky" is bottled by or for the distillers of the whiskies, the label may contain, in lieu of the wording specified in that introductory paragraph, the words "Distilled by", followed immediately by the name (or trade name) of each distiller that distilled a portion of the "straight whisky", the address of each of the distilled spirits plants where a portion of the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In addition, where "straight whisky" is made up of a mixture of "straight whiskies" of the same type distilled at two or more distilled spirits plants of the same proprietor located within the same State, and where that "straight whisky" is bottled by or for that proprietor, the label for the "straight whisky" may contain, in lieu of the wording specified in the introductory paragraph of this section, the words "Distilled by" followed by the name (or trade name) of the proprietor and the address of each of the distilled spirits plants that distilled a portion of the "straight whisky";

(c) Where distilled spirits are bottled by or for the proprietor of a distilled spirits plant, the label may state, in lieu of the words "Bottled by", "Packed by", or "Filled by" followed by the bottler's name (or trade name) and address, the words "Blended by", "Made by", "Prepared by", "Manufactured by", or "Produced by" (whichever is appropriate to the process involved), followed by the name (or trade name) and the address (or addresses) of the distilled spirits plant proprietor;

(d) In the case of labels of distilled spirits bottled for a retailer or other

person who is not the proprietor of the distilled spirits plant where the distilled spirits were distilled, the label may also state the name and address of that retailer or other person, preceded immediately by the words "Bottled for", "Distributed by", or other similar statement; and

(e) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or processing operation occurred, provided that the address where the bottling, distilling, or other operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle. The coding system employed must permit TTB to determine where the operation stated on the label occurred. Prior to using such a label or bottle coding system, the proprietor must send a notice to the appropriate TTB officer explaining the coding system.

(26 U.S.C. 5201)

#### § 19.519 Labels for export spirits.

(a) *Required information.* If a proprietor bottles spirits for export, the bottles must have a securely affixed label showing:

(1) The kind (class and type) of spirits;

(2) The percentage of alcohol by volume (ABV) of the spirits;

(3) The net contents, unless the markings on the bottle indicate such contents; and

(4) The name (or trade name) of the bottler.

(b) *Additional information.* The bottler may place additional information on the export label if it is not inconsistent with the information required under paragraph (a) of this section.

(c) *Language.* The export label information may appear in the language of the country to which the spirits are to be exported provided that the proprietor maintains on file an English translation of that information. The export label may state the net contents and percentage of alcohol by volume in the units of measurement of the foreign country, provided that the proprietor maintains a record of the equivalent units as required for labels of spirits bottled for domestic consumption.

(d) *Waiver.* The appropriate TTB officer may waive the requirement to show any information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information. In regard to kind (class and type) of spirits, the appropriate TTB officer may waive the designation

required by § 5.22 of this chapter, only to the extent that the label need not bear the word "diluted" for distilled spirits bottled below the minimum bottling proof, and provided that this is in accordance with the rules of the country to which the product is to be exported.

(26 U.S.C. 5201, 5301)

#### § 19.520 Spirits for shipment to Puerto Rico.

Spirits removed for shipment to Puerto Rico with benefit of drawback or without payment of tax in accordance with part 28 of this chapter are subject to the provisions of part 5 of this chapter in regard to labeling and standards of fill for bottles.

(26 U.S.C. 5201)

#### Closure Requirements

##### § 19.523 Affixing closures.

Each bottle or other container of spirits having a capacity of one gallon (3.785 liters) or less must have a closure or other device securely affixed to the container prior to withdrawal from bond or customs custody. 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.

(26 U.S.C. 5301)

##### § 19.525 Reclosing.

A proprietor may reclose bottles of distilled spirits filled on bonded premises as provided in subpart N of this part. A proprietor may also reclose bottles of distilled spirits to which closures or other devices have been affixed as provided in § 19.498.

(26 U.S.C. 5215)

#### Subpart U—[Reserved]

#### Subpart V—Records and Reports

##### General Rules for Records

##### § 19.571 Records in general.

Each proprietor of a distilled spirits plant must maintain records that accurately reflect the operations and transactions occurring at the plant. This subpart specifies the types of records that a proprietor must maintain. In general, a proprietor is responsible for recording activities and transactions related to the three primary operational accounts at a plant: production, storage, and processing. A proprietor's records must show receipts in each account, movement from one account to another, transfers in bond, and withdrawals of spirits, denatured spirits, articles, or wines. The types of records that a proprietor must keep include:

(a) All individual transaction forms, records, and summaries that are specifically required by this part;

(b) All supplemental, auxiliary, and source data that a proprietor uses to compile required forms, records, and summaries, and to prepare reports, returns and claims; and

(c) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(26 U.S.C. 5207)

#### § 19.572 Format of records.

As a general rule, the provisions of this subpart do not require proprietors to keep their records in any particular format or medium. For example, a proprietor may keep required records on paper, on microfilm or microfiche, or on a computer or other electronic medium, so long as the records are readily retrievable in hardcopy format for review by TTB officers as necessary. The required records may consist of documents created in the ordinary course of business, rather than documents created expressly to meet the requirements of this part, provided that those documents:

(a) Contain all of the relevant information required under this part;

(b) Are consistent with the general standards of clarity and accuracy; and

(c) Can be readily understood by TTB personnel.

(26 U.S.C. 5207)

#### § 19.573 Location of required records.

A proprietor may keep the records required by this part at the distilled spirits plant where operations or transactions occur or at a central recordkeeping location maintained by the proprietor. If a proprietor keeps the required records at any location other than the distilled spirits plant where operations or transactions occur, the proprietor must provide a letterhead notice to the Director, National Revenue Center, of the location where the records are kept.

(26 U.S.C. 5207)

#### § 19.574 Availability of records.

The records required by this part must be available for inspection by the appropriate TTB officer during normal business hours. If a proprietor keeps the records at a location other than the distilled spirits plant where operations or transactions occur, the proprietor upon request must make them available at the distilled spirits plant premises undergoing a TTB audit or inspection. The records must be produced within two days of the request except that data

accumulated on cards, tapes, discs, or other accepted record media must be retrievable within five business days. Applicable data processing programs must be made available for examination if requested by any authorized TTB officer.

(26 U.S.C. 5207)

#### § 19.575 Retention of records.

A proprietor must retain any records required by this part for a period of not less than three years from the date of the record or the date of the last entry required to be made, whichever is later. However, the appropriate TTB officer may require a proprietor to keep records for an additional period not exceeding three years in any case where such retention is deemed appropriate for the protection of the revenue.

(26 U.S.C. 5207)

#### § 19.576 Preservation of records.

A proprietor must maintain required records in a manner that will ensure their readability and availability for inspection. Whenever the condition of any record will render it unsuitable for its intended or continued use, the proprietor must create an accurate and legible reproduction of the original record. TTB will treat the reproduced record as an original record, and all of the provisions of law that would apply to the original record also will apply to the reproduced record.

(26 U.S.C. 5207, 5555)

#### § 19.577 Documents that are not records.

The term "records" as used in this subpart does not include qualifying documents required under subpart D of this part, or bonds required under subpart F of this part. Approved active formulas, plant registrations and similar records are permanent in nature and must be maintained in a permanent file.

(26 U.S.C. 5207)

#### § 19.578 Financial records and books of account.

See § 70.22 of this chapter for information regarding TTB examination of financial records and books of account.

(26 U.S.C. 7602)

#### § 19.580 Time for making entries in records.

(a) *Daily record entries.* A proprietor must make entries required by this part in records on a daily basis for each transaction or operation and not later than the close of the next business day after the transaction or operation occurred. However, if a proprietor prepares supplemental or auxiliary

records when an operation or transaction occurs and those records contain all of the required information, the proprietor may make entries into the daily records not later than the close of business on the third business day following the day on which the transaction or operation occurred.

(b) *Tax records.* A proprietor must enter the tax determination and the taxable removal of distilled spirits in the proprietor's records on the day on which tax determination and taxable removal occurs.

(26 U.S.C. 5207)

#### § 19.581 Details of daily records.

The daily records required by this part must include the following information:

(a) The date of each operation or transaction;

(b) For spirits, the kind and the quantity in proof gallons;

(c) For denatured spirits, the formula number and the quantity in wine gallons;

(d) For distilling materials produced on the premises, the kind and the quantity in wine gallons. For chemical byproducts containing spirits, articles, spirits residues, and distilling material received on the premises, the kind, the percent of alcohol by volume, and the quantity in wine gallons;

(e) For wines, the kind, the quantity in wine gallons and the percent of alcohol by volume;

(f) For alcoholic flavoring materials, the kind, formula number (if any), and the quantity in proof gallons;

(g) For containers (other than those bearing lot identification numbers) or cases, the type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. However, a proprietor may withdraw spirits in cases without recording the serial numbers of the cases, unless the appropriate TTB officer requires such recording. A proprietor must record package identification numbers, number of packages, and proof gallons per package on deposit records in the storage account reflecting production gauges or filling of packages from tanks; however, the proprietor need show only the lot identification, number of packages, and proof gallons per package for transactions in packages of spirits unless package identification numbers are specifically required by this part;

(h) For materials intended for use in the production of spirits, the kind and the quantity, with liquids recorded in gallons and other nonliquid materials recorded by weight;

(i) For each receipt or removal of material, spirits, denatured spirits, articles, spirits residues, and wine, the name and address of the consignee or consignor, and, if any, the plant number or industrial use permit number of such person;

(j) The serial number of any tank used;

(k) On the transaction record, the rate of duty paid on imported spirits;

(l) Identification of imported spirits, spirits from Puerto Rico, and spirits from the Virgin Islands, or a showing that a distilled spirits product contains such spirits; and

(m) Identification of spirits that are to be used exclusively for fuel use.

(26 U.S.C. 5207)

#### **§ 19.582 Conversion from metric to U.S. units.**

When liters are converted to wine gallons, the proprietor must multiply the quantity in liters by 0.264172 to determine the equivalent quantity in wine gallons. If cases contain the same quantity of spirits of the same proof in metric bottles, the proprietor must convert the cases to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows:

(a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units must be rounded to the sixth decimal; or

(b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units must be rounded to the nearest hundredth. Once converted to wine gallons, the proprietor must determine the proof gallons of spirits in cases as provided in § 30.52 of this chapter.

(26 U.S.C. 5201)

#### **Production Records**

##### **§ 19.584 Materials for the production of distilled spirits.**

A proprietor must maintain daily records of materials produced or received for, or used in, the production of distilled spirits. This includes records covering:

(a) Receipt and use of fermenting material or other nonalcoholic materials for the production of distilled spirits;

(b) Receipt and use of spirits, denatured spirits, articles, and spirits residues for redistillation;

(c) Distilling materials produced, received for production, and used in the production of distilled spirits;

(d) Receipt of beer from brewery premises without payment of tax, and receipt of beer removed from brewery

premises upon determination of tax as authorized by 26 U.S.C. 5222(b);

(e) Distilling material destroyed in, or removed from the premises before distillation, including residue of beer returned to the producing brewery;

(f) The quantity of fusel oils or other chemicals removed from the production system, including the disposition thereof, with the name of the consignee, if any, together with the results of alcohol content tests performed on those fusel oils or chemicals; and

(g) The kind and quantity of distillates removed from the production system pursuant to § 19.307.

(26 U.S.C. 5207)

##### **§ 19.585 Production and withdrawal records.**

(a) *Production of spirits.* The following rules apply to the maintenance of production records:

(1) A proprietor must maintain daily production account records of the kind and quantity of distilled spirits produced. The records must show the gauge of spirits in each receiving tank and the production gauge (in proof gallons) of spirits removed from each tank. If packages are filled according to the production gauge for immediate withdrawal from bond, the proprietor must record the details of the individual packages filled;

(2) A proprietor must maintain daily records of spirits lost or destroyed prior to the production gauge; and

(3) A proprietor must maintain production account records in a manner that will ensure the tracing of spirits through the distilling system to the mash or other material from which the spirits were produced and that will clearly establish the identity of the spirits.

(b) *Withdrawals from production.* A proprietor must maintain daily records of the distilled spirits withdrawn from the production account. This includes withdrawals for:

(1) Taxpayment;

(2) Use of the United States;

(3) Hospital, scientific or educational use;

(4) Export;

(5) Transfer to a foreign trade zone;

(6) Transfer to customs bonded manufacturing warehouse;

(7) Use as supplies on vessels and aircraft;

(8) Use in wine production;

(9) Transfer in bond to other bonded premises;

(10) Transfer to storage operations;

(11) Transfer to processing operations; and

(12) Research, development, or testing.

(26 U.S.C. 5207)

##### **§ 19.586 Byproduct spirits production records.**

Each proprietor who manufactures substances other than spirits in a process that produces spirits as a byproduct must maintain daily production records of:

(a) The kind and quantity of materials received and used in production;

(b) The kind and quantity of spirits produced and disposed of; and

(c) The kind and quantity of other substances produced.

(26 U.S.C. 5207)

#### **Storage Records**

##### **§ 19.590 Storage operations.**

(a) *Receipts.* A proprietor must maintain daily records of the kind and quantity of distilled spirits or wines received in the storage account. The proprietor must use copies of gauge records, transfer records, and tank records of wines or spirits to record spirits or wines received into storage. Receipts into storage include:

(1) Receipts of spirits or wines for deposit into storage;

(2) Receipts by transfer in bond;

(3) Receipts of spirits from customs custody; and

(4) Receipts of spirits returned to bond.

(b) *Storage activities.* A proprietor must maintain daily records of the activities and operations within the storage account at the plant, including records regarding:

(1) The mingling of spirits;

(2) Spirits in tanks;

(3) Spirits or wines filled into packages from tanks and retained for storage;

(4) Spirits of less than 190° of proof or wines transferred from one tank to another;

(5) The transfer of spirits or wine from one package to another; and

(6) The addition of oak chips to spirits and the addition of caramel to brandy or rum.

(c) *Withdrawals from storage.* A proprietor must maintain daily records of the kind and quantity of distilled spirits or wines withdrawn from the storage account, including records regarding:

(1) Taxpayment;

(2) Use by the United States;

(3) Hospital, scientific or educational use;

(4) Export;

(5) Transfer to a foreign trade zone;

(6) Transfer to a customs bonded manufacturing warehouse;

(7) Use as supplies on vessels and aircraft;

- (8) Transfer to a bonded winery;
- (9) Transfer to a customs bonded warehouse;
- (10) Use for research, development, or testing;
- (11) Transfer to processing operations;
- (12) Transfer to production operations;
- (13) Transfer in bond to other bonded premises;
- (14) Destruction; and
- (15) Loss.

(26 U.S.C. 5207)

**§ 19.591 Package summary records.**

(a) *General.* A proprietor must keep current summary records for each kind of spirits or wine in packages that show the spirits or wine deposited in, withdrawn from, and remaining in, the storage account. A proprietor must keep separate records for domestic spirits, imported spirits, Virgin Islands spirits, Puerto Rican spirits, and wine. A proprietor may keep package records for spirits according to the season or the year in which the packages were filled with spirits.

(b) *Arrangement of records.* The proprietor must prepare and arrange separately package summary records:

- (1) For domestic spirits, alphabetically by State and by the plant number and name of the producer or warehouseman;
- (2) For imported spirits, alphabetically by the country of origin and by the name of the producer;
- (3) For Puerto Rican or Virgin Islands spirits, by the name of the producer in Puerto Rico or the Virgin Islands; and
- (4) For wine, by the kind and the tax rate imposed by 26 U.S.C. 5041.

(c) *Details of records.* Package summary records must show the following details:

- (1) The date on which each of the summarized transactions occurred;
- (2) For spirits, the number of packages and the proof gallons covered by the summary record;
- (3) For wine, the number of packages and the wine gallons covered by the summary record;
- (4) Any gains or shortages disclosed by inventory or when an account is closed; and
- (5) The gallon balances on summary records for spirits and wines remaining in the account at the end of each month.

(d) *Consolidation.* A proprietor must consolidate package summary records at the end of each month, or for lesser periods when required by the appropriate TTB officer, to show, for all types of containers and kinds of spirits, the total proof gallons received in, withdrawn from, and remaining in the storage account.

(26 U.S.C. 5207)

**§ 19.592 Tank record of wine and spirits of less than 190° of proof.**

A proprietor must keep a record for each tank (including each bulk conveyance) containing wine or spirits of less than 190° of proof. The record must show deposits into, withdrawals from, and the balance remaining in, each tank in the storage account. A proprietor must prepare a new record each time wine or spirits are deposited into an empty tank and must make entries each day that transactions occur. Tank records must show the following details:

- (a) The identification of the tank;
- (b) The tank record serial number, beginning with "1" for each record initiated on or after January 1 of each calendar year;
- (c) The date of each transaction;
- (d) For spirits, the kind of spirits and, as applicable,—

(1) For domestic spirits, the plant number and name of the producer, or, for blended rums or brandies, the plant number and name of the warehouseman;

(2) For imported spirits, the country of origin and the name and plant number of the warehouseman;

(3) For Puerto Rican or Virgin Island spirits, the name of the producer;

(4) The number and average proof gallon content of packages of spirits dumped in the tank, or a notation indicating the deposit of spirits in the tank by pipeline; and

(5) If subject to age labeling requirements under part 5 of this chapter, the age of the youngest spirits in years, months and days, each time that spirits are deposited;

(e) For wine, the kind and the tax rate imposed by 26 U.S.C. 5041;

(f) The wine gallons of wine, or proof gallons of spirits, deposited into the tank;

(g) The wine gallons of wine, or proof gallons of spirits, withdrawn from the tank;

(h) Any related transaction form or record and its serial number for deposits and withdrawals;

(i) The wine gallons of wine, or proof gallons of spirits, remaining in the tank, recorded at the end of each month; and

(j) Any gain or loss disclosed by inventory or on emptying of the tank.

(26 U.S.C. 5207)

**§ 19.593 Tank summary record for spirits of 190° or more of proof.**

(a) *General.* A proprietor must keep a tank summary record for spirits of 190° or more of proof held in storage tanks. The record must show the proof gallons

deposited into, withdrawn from, and remaining in the tanks in the storage account. The proprietor must prepare a separate tank summary record for each kind of spirits of 190° or more of proof. The proprietor must make an entry for each day on which a transaction occurs, and the entry must summarize the individual transactions shown on the deposit records.

(b) *Arrangement of records.* The proprietor must prepare and arrange the tank summary records as follows:

(1) For domestic spirits, by the name of the producer or warehouseman;

(2) For imported spirits, by the name of the warehouseman who received the spirits from customs custody; and

(3) For spirits from Puerto Rico or the Virgin Islands, by the name of the producer in Puerto Rico or the Virgin Islands.

(c) *Details of records.* Tank summary records must show the following details:

(1) The kind of spirits;

(2) The date of the transactions summarized;

(3) The proof gallons deposited;

(4) The proof gallons withdrawn;

(5) The proof gallons remaining in tanks; and

(6) Any gain or loss disclosed by inventory or on emptying of the tanks covered by the tank summary record.

(26 U.S.C. 5207)

**Processing Records**

**§ 19.596 Processing records in general.**

A proprietor who processes spirits must maintain daily records of transactions and operations in the processing account relating to:

(a) The manufacture of distilled spirits products;

(b) Finished products;

(c) The denaturation of spirits; and

(d) The manufacture of articles.

(26 U.S.C. 5207)

**§ 19.597 Manufacturing records.**

(a) *Receipts.* A proprietor must maintain daily records of the spirits, wines, and alcoholic flavoring materials received into the processing account for the manufacture of distilled spirits products. Total receipts must be summarized showing the amount of:

(1) Spirits received from storage or production at the same plant;

(2) Spirits received from other plants by transfer in bond;

(3) Spirits received from customs custody;

(4) Spirits received by return to bond;

(5) Wines received from the storage at the same plant;

(6) Wines received by transfer in bond; and



(7) Alcoholic flavoring materials received.

(b) *Additional receipt information.* The records described in paragraph (a) of this section must also show the name and plant number of the producer or processor (or the warehouseman in the case of blended beverage rums or brandies or spirits of 190° of more of proof received from storage) for domestic spirits, the name of the importer and the country of origin for imported spirits, and the name and address of the producer for wines and alcoholic flavoring materials.

(c) *Usage.* A proprietor must maintain daily records of the spirits, wines, and alcoholic flavoring materials and other ingredients used in the manufacture of distilled spirits products as provided in § 19.598.

(d) *Bottling or packaging.* A proprietor must maintain daily records of the bottling or packaging of each batch of spirits as provided in § 19.599.

(e) *Other dispositions.* A proprietor must maintain daily records of all other dispositions of spirits, wines and alcoholic flavoring materials, including, but not limited to, records regarding the following:

(1) Spirits, wines, and alcoholic flavoring materials removed from the distilled spirits plant premises;

(2) Transfers in bond;

(3) Spirits transferred to the production account for redistillation;

(4) Redistillation of spirits, including the production of gin or vodka by other than original and continuous distillation;

(5) Voluntary destruction of spirits or wines; and

(6) Losses of spirits, wines and alcoholic flavoring materials.

(26 U.S.C. 5207)

#### § 19.598 Dump/batch records.

A proprietor who processes, mixes, or blends spirits in the processing account must maintain “dump/batch” records setting forth detailed information regarding the processing of the spirits. The dump/batch records must contain each of the following items of information that applies to the processing in question:

(a) Serial number of the record or batch number;

(b) Name and distilled spirits plant number of the producer;

(c) Kind and age of the spirits used, together with a notation, if applicable, that the spirits—

(1) Were treated with oak chips;

(2) Contain added caramel;

(3) Were imported; or

(4) Are from Puerto Rico or the Virgin Islands;

(d) Serial number of the tank or container to which ingredients are added for use;

(e) Serial or identification number of the tank or container from which spirits are removed;

(f) Quantity by ingredient of other alcoholic ingredients used, showing wine in wine gallons, the percentage of alcohol by volume and proof, and alcoholic flavoring materials in proof gallons;

(g) Serial number of the source transaction record (for example, the record for spirits previously dumped);

(h) Date of each transaction;

(i) Quantity, by ingredient (other than water), of nonalcoholic ingredients used;

(j) Formula number;

(k) Quantity of ingredients used in the batch that have been previously dumped, reported on dump records, and held in tanks or containers;

(l) Total quantity in proof gallons of all alcoholic ingredients used;

(m) Identification of each record to which spirits are transferred;

(n) Quantity of each lot transferred;

(o) Date of each transfer;

(p) Total quantity in proof gallons of the product transferred;

(q) Batch gain or loss; and

(r) For each batch to be tax determined in accordance with § 19.247, the effective tax rate.

(26 U.S.C. 5207)

#### § 19.599 Bottling and packaging records.

A proprietor who bottles or packages spirits must prepare a “bottling and packaging” record for each lot of spirits bottled or packaged. The bottling and packaging record must contain the following information:

(a) Bottling tank number;

(b) Serial number of the record (beginning with “1” at the start of each calendar or fiscal year);

(c) Formula number (if any) under which the batch was produced;

(d) Serial number of the dump/batch record from which the spirits were received;

(e) Kind of distilled spirits product (including age, if claimed);

(f) Details of the tank gauge (including proof, wine gallons, proof gallons, and, if applicable, obscuration);

(g) The date the bottles or packages were filled;

(h) The size of the bottles or packages filled, the number of bottles per case, and the number of cases or packages filled;

(i) Serial numbers by brand name of the cases or other containers filled;

(j) Proof of the spirits bottled or packaged (if different from the proof

recorded under paragraph (f) of this section);

(k) Total quantity bottled, packaged, or otherwise disposed of in bulk;

(l) Losses or gains of the distilled spirits product; and

(m) If labeled as bottled in bond, a statement to that effect.

(26 U.S.C. 5207)

#### § 19.600 Alcohol content and fill test record.

A proprietor must maintain a record of the results of all tests of alcohol content and quantity (fill) conducted. The record must include information that will enable TTB officers to determine whether the proprietor is complying with the requirements of § 19.356. The record of alcohol content and fill tests must contain, at a minimum, the following information:

(a) Date and time of the test;

(b) Bottling tank number;

(c) Serial number of the bottling record;

(d) Bottling line designation;

(e) Size of bottles filled;

(f) Number of bottles tested;

(g) Labeled alcohol content;

(h) Alcohol content found by the test;

(i) Percentage of variation from 100 percent fill; and

(j) Corrective action taken, if any.

(26 U.S.C. 5207, 5555)

#### § 19.601 Finished products records.

(a) *Bottling and packaging.* A proprietor must maintain daily transaction records and a daily summary record of the kind and quantity of finished products bottled or packaged within the processing account at the distilled spirits plant. These records must show:

(1) The beginning and ending quantity of bottled or packaged spirits on hand;

(2) The quantity of spirits bottled or packaged; and

(3) Inventory overages.

(b) *Disposition of finished products.* A proprietor must also maintain daily records of the disposition of finished products from the processing account at the distilled spirits plant. These disposition records must show any spirits:

(1) Transferred in bond (packages);

(2) Withdrawn tax determined;

(3) Withdrawn free of tax for U.S., hospital, scientific, or educational use;

(4) Withdrawn without payment of tax for addition to wine;

(5) Withdrawn for exportation, for vessels and aircraft supplies and for transfer to a customs bonded warehouse;

(6) Transferred to the production account for redistillation;

(7) Withdrawn for research, development or testing (including government samples);

(8) Voluntarily destroyed;

(9) Dumped for further processing;

(10) Recorded losses or shortages of finished product; and

(11) Disposed of as samples of the finished product.

(26 U.S.C. 5207)

#### § 19.602 Redistillation records.

If a proprietor redistills spirits in the processing account (as in the production of gin or vodka by redistillation), the proprietor must prepare a record of the redistillation. The record must show the kind and quantity of the spirits entered into the distilling system and the kind and quantity of the spirits removed from the distilling system upon completion of the process.

(26 U.S.C. 5207)

#### § 10.603 Liquor bottle records.

A proprietor must maintain records of the receipt, use, and disposition of liquor bottles.

(26 U.S.C. 5207)

#### § 19.604 Rebottling, relabeling, and reclosing records.

(a) If a proprietor dumps spirits for rebottling, the proprietor must prepare in accordance with § 19.599 a bottling and packaging record that covers the rebottling operation.

(b) If a proprietor relabels or recloses bottled products in accordance with § 19.363, the proprietor must maintain records of the operation that reflect the following:

(1) The identity of the spirits relabeled or reclosed;

(2) The date of the transaction;

(3) The serial numbers of any cases involved; and

(4) The total number of bottles.

(26 U.S.C. 5207)

#### Denaturation and Article Manufacture Records

##### § 19.606 Denaturation records.

(a) *General.* A processor that is authorized to denature spirits must maintain daily records of denaturation showing the following information:

(1) Spirits that are received for, and used in, denaturation;

(2) Spirits, denatured spirits, recovered denatured spirits, spirits residues, and articles that are redistilled in the processing account for denaturation;

(3) Kind and quantity of denaturants received and used in denaturation of spirits or otherwise disposed of;

(4) Conversion of denatured alcohol formulas in accordance with § 19.392;

(5) Denatured spirits produced, received, stored in tanks, filled into containers, removed, or otherwise disposed of;

(6) Recovered denatured spirits or recovered articles received, restored, or redenatured;

(7) Packages of denatured spirits filled, with a separate record for each formula number and filed in numerical order according to the serial number or lot identification number of the packages;

(8) Losses of denatured spirits; and

(9) Disposition of denatured spirits.

(b) *Record of denaturation.* Each time that a proprietor denatures spirits, the proprietor must prepare a record that shows the formula number, the tank in which denaturation takes place, the proof gallons of the spirits before denaturation, the quantity of each denaturant used (in gallons, or in pounds or ounces), and the wine gallons of denatured spirits produced.

(26 U.S.C. 5207)

##### § 19.607 Article manufacture records.

A processor that is authorized to manufacture articles must maintain daily records arranged by the name and authorized use code of the article and showing the following:

(a) Quantity, by formula number of denatured spirits used in the manufacture of the article;

(b) Quantity of each article manufactured; and

(c) Quantity of each article removed, or otherwise disposed of, including the name and address of the person purchasing or otherwise disposing of the article.

(26 U.S.C. 5207)

#### Tax Records

##### § 19.611 Records of tax determination in general.

(a) *Taxable withdrawals.* Except as otherwise provided in this part, a proprietor must gauge and determine the tax on spirits when they are withdrawn from bond. When spirits are withdrawn from bond, the proprietor must also prepare a record of the tax determination in accordance with paragraph (b) of this section.

(b) *Form of record.* A serially numbered invoice or shipping document, signed or initialed by an agent or employee of the proprietor, will constitute the record of tax determination. Although neither the proof gallons nor the effective tax rate must be shown on the record of tax determination, each invoice or shipping document must contain information sufficient to enable TTB officers to

determine the total proof gallons and, if applicable, each effective tax rate and the proof gallons removed at each effective tax rate. For purposes of this part, the total proof gallons calculated from each invoice or shipping document constitutes a single withdrawal.

(26 U.S.C. 5207)

##### § 19.612 Summary records of tax determinations.

Each proprietor that withdraws distilled spirits on determination of tax, but before payment of tax, must maintain a daily summary record of tax determinations. The summary record must show for each day on which tax determinations occur:

(a) The serial numbers of the records of tax determination, the total proof gallons rounded to the nearest tenth proof gallon on which tax was determined at each effective tax rate, and the total tax; or

(b) The serial numbers of the records of tax determination, the total tax for each record of tax determination, and the total tax.

(26 U.S.C. 5207)

##### § 19.613 Average effective tax rate records.

(a) *Daily record.* For each distilled spirits product to be tax determined using an average effective tax rate in accordance with § 19.249, the proprietor must prepare a daily summary record showing:

(1) The serial number of the batch record of each batch of the product that will be bottled or packaged, in whole or in part, for domestic consumption;

(2) The proof gallons in each such batch derived from distilled spirits, eligible wine, and eligible flavors; and

(3) The tax liability of each such batch determined as follows—

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

(ii) Wine gallons of each eligible wine, multiplied by the tax rate which would be imposed on the wine under 26 U.S.C. 5041(b)(1), (2), or (3) but for its removal to bonded premises; and

(iii) Proof gallons of all distilled spirits derived from eligible flavors, to the extent that those distilled spirits exceed 2.5 percent of the proof gallons in the product, multiplied by the tax rate prescribed in 26 U.S.C. 5001.

(b) *Monthly records.* At the end of each month during which the product is manufactured, the proprietor must:

(1) Determine the total proof gallons and total tax liability for each summary record prescribed by paragraph (a) of this section;

(2) Add the sums derived under paragraph (b)(1) of this section to the like sums determined for each of the preceding 5 months; and

(3) Divide the total tax liabilities by the total proof gallons.

(26 U.S.C. 5207)

**§ 19.614 Inventory reserve records.**

(a) *General.* For each eligible distilled spirits product to be tax determined in accordance with § 19.250, the proprietor must establish an inventory reserve account, in accordance with this section.

(b) *Deposit records.* For each batch of the bottled or packaged product, the proprietor must enter into the inventory reserve account a deposit record, which may be combined with the bottling and packaging record required by § 19.599, showing:

- (1) The name of the product;
- (2) The bottling and packaging record serial number;
- (3) The date the bottling or packaging was completed;
- (4) The total proof gallons bottled and packaged; and
- (5) The effective tax rate of the product computed in accordance with § 19.246.

(c) *Depletions.* The inventory reserve account for each product must be depleted in the same order in which the deposit records were entered into the account. The proprietor must record a depletion for each disposition (for example, a taxable removal, an exportation, or an inventory shortage or breakage) by entering on the deposit record:

- (1) The transaction date;
- (2) The transaction record serial number;
- (3) The proof gallons disposed of; and
- (4) The proof gallons remaining. If any depletion exceeds the quantity of product remaining on the deposit record, the proprietor must deplete the remaining quantity, close the deposit record, and then deplete the remainder of the transaction from the next deposit record.

(26 U.S.C. 5207)

**§ 19.615 Standard effective tax rate records.**

For each product to be tax determined using a standard effective tax rate in accordance with § 19.248, a proprietor must prepare a record of the standard effective tax rate computation showing, for one proof gallon of the finished product, the following information:

- (a) The name of the product;
- (b) The least quantity of each eligible flavor that will be used in the product,

in proof gallons, or 0.025 proof gallon, whichever is less;

(c) The least quantity of each eligible wine that will be used in the product, in proof gallons;

(d) The greatest effective tax rate applicable to the product, calculated in accordance with § 19.246 with the values indicated in paragraphs (a) and (b) of this section; and

(e) The date on which the use of the standard effective tax rate commenced.

(26 U.S.C. 5207)

**Other Required Records**

**§ 19.616 Records of samples.**

(a) *Required records.* A proprietor must maintain records of all samples taken under §§ 19.434 and 19.435. The sample record must show the:

- (1) The date that the samples were taken;
- (2) The account from which taken;
- (3) The purpose for which taken;
- (4) The size and number of samples taken;

- (5) The kind of spirits;
- (6) The disposition of each sample (for example, destroyed, returned to containers or the distilling system, retained for library purposes); and
- (7) The name and address of the recipient of the sample if a sample is to be analyzed or tested elsewhere than at the distilled spirits plant where taken.

(b) *Sample schedule.* When a proprietor takes samples pursuant to an established schedule, the proprietor may maintain the schedule as the required record if it contains the information required by paragraphs (a)(2) through (a)(7).

(26 U.S.C. 5207)

**§ 19.617 Destruction records.**

Each time that a proprietor voluntarily destroys spirits, denatured spirits, articles, or wines, the proprietor must prepare a record of the destruction that sets forth:

(a) The identification of the spirits, denatured spirits, articles, or wines, including kind, quantity, elements of gauge, name and permit number of the producer, warehouseman or processor, and identity and type of container;

(b) The date, time, place and manner of the destruction;

(c) A statement that the spirits had, or had not, previously been withdrawn and returned to bond; and

(d) The name and title of any representative of the proprietor who accomplished or supervised the destruction.

(26 U.S.C. 5207)

**§ 19.618 Gauge record.**

When a gauge record is required by this part, the proprietor must prepare the gauge record in a manner that shows:

(a) The serial number of the gauge record, which must either:

- (1) Commence with "1" at the start of each calendar or fiscal year, or
- (2) Be a unique identifying number that is not repeated.

(b) From the following, the applicable circumstances requiring the gauge—

- (1) Production gauge and entry for deposit in the storage or processing account at the distilled spirits plant where the spirits were produced;
- (2) Packaging of spirits or wine filled from a tank in the storage account at the same distilled spirits plant;
- (3) Transfer from the processing or storage account to the production account for redistillation;
- (4) Repackaging of spirits of 190° or more of proof; or
- (5) Gauge on return to bond in production or processing operations of spirits, denatured spirits, recovered spirits, recovered denatured spirits, articles, recovered articles, or spirits residues;

(c) The date of the gauge;

(d) Any related form or record (identification, serial number and date);

(e) The kind of spirits or formula number for denatured spirits;

(f) The proof of distillation (not required for denatured spirits, spirits for redistillation, or spirits of 190° or more of proof);

(g) When containers are to be filled, the type and number of containers;

(h) The age of the spirits;

(i) The name and distilled spirits plant number of the producer or warehouseman; and

(j) The following gauge data—

- (1) Package identification, tank number, volumetric or weight gauge details, proof, and wine gallons;
- (2) Cooperage identification ("C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G" for glued, or "R" for reused, and "PS" if a barrel has been steamed or water soaked before filling);
- (3) Entry proof for whiskey;
- (4) Proof gallons per filled package; and

(5) Total proof gallons of spirits or wine gallons of denatured spirits, recovered denatured spirits, articles, spirits residues, or wine.

(26 U.S.C. 5207)

**§ 19.619 Package gauge record.**

When this part or part 28 of this chapter requires a proprietor to gauge

packages of spirits, the proprietor must prepare a package gauge record in a manner that shows:

(a) The date the record is prepared;  
 (b) The identity of the related transaction form or record, and its serial number;

(c) The name and distilled spirits plant number of the producer or processor. For blended rums or brandies the proprietor must enter the name and plant number of the blending warehouseman. For spirits of 190° or more of proof, the proprietor must enter the name and plant number of the producer or warehouseman, as appropriate and, where the packages have already been marked, the name and distilled spirits plant number marked thereon. For imported spirits, the proprietor must enter the name of the warehouseman who received the spirits from customs custody and the name of the importer. For Virgin Islands or Puerto Rican spirits, the proprietor must enter the name of the producer in the Virgin Islands or Puerto Rico;

(d) The proof of distillation for spirits not over 190° of proof; and

(e) For each package—  
 (1) The serial or identification number;

(2) The designation for wooden barrels (“C” for charred, “REC” for recharred, “P” for plain, “PAR” for paraffined, “G” for glued, “R” for reused, and “PS” if a barrel has been steamed or water soaked before filling);

(3) The kind of spirits;

(4) The gross weight determined at the time of the original gauge or regauge or at the time of shipment;

(5) The present tare on regauge;

(6) The net weight for filling gauge or regauge;

(7) The proof;

(8) The proof gallons for regauge;

(9) The original proof gallons; and

(10) The receiving weights, when a material difference appears on receipt after transfer in bond of weighed packages.

(26 U.S.C. 5207)

**§ 19.620 Transfer record—consignor’s responsibility.**

When this part requires a consignor proprietor to prepare a transfer record covering spirits, denatured spirits, or wines shipped in bond from its distilled spirits plant, the transfer record must include:

(a) The serial number of the transfer record, which must either:

(1) Commence with “1” at the start of each calendar or fiscal year, or

(2) Be a unique identifying number that is not repeated.

(b) The serial number and date of form TTB F 5100.16 (not required for

wine spirits withdrawn without payment of tax for use in wine production);

(c) The name and distilled spirits plant number of the consignor proprietor;

(d) The name and distilled spirits plant number or bonded wine cellar number of the consignee;

(e) The account from which the spirits or wines were removed for transfer (that is, the production, storage, or processing account);

(f) A description of the spirits, denatured spirits, or wine, including—

(1) The name and plant number of the producer, warehouseman, or processor (not required for denatured spirits or wine). For imported spirits transferred in bond between distilled spirits plants, the transfer record must show the name and plant number of the warehouseman or processor who received the spirits from customs custody. For Virgin Islands or Puerto Rican spirits, the transfer record must show the name of the producer in the Virgin Islands or Puerto Rico. For spirits of different producers or warehousemen that have been mixed in the processing account, the transfer record must show the name of the processor;

(2) The kind of spirits or wines. For denatured spirits, the transfer record must show the kind and formula number. For alcohol, the transfer record must show the material from which it was produced. For bulk spirits and for alcohol in packages, the transfer record must show the kind and proof. For other spirits and wines, the transfer record must show the kind designation as specified in part 4 or part 5 of this chapter, as appropriate;

(3) The age (in years, months, and days) and year of production;

(4) The number of packages or cases with their lot identification numbers or serial numbers and dates of fill;

(5) The type of container (if the spirits, denatured spirits or wines are to be transferred by pipeline, the transfer record must show “P/L”);

(6) The proof gallons for distilled spirits, or wine gallons for denatured spirits or wine; and

(7) For distilled spirits products that contain eligible wine or eligible flavors, the transfer record must show the elements necessary to compute the effective tax rate 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;

(g) A notation to indicate when spirits are being transferred in bond from a production facility to another distilled spirits plant;

(h) The identification of the conveyance;

(i) The identity of the seals, locks, or other devices affixed to the conveyance or package (permanent seals affixed to a conveyance that remain intact need not be recorded on the transfer record when a permanent record is maintained);

(j) The date of transfer; and

(k) The signature and title of the consignor, with a penalty-of-perjury statement as prescribed in § 19.45.

(26 U.S.C. 5207)

**§ 19.621 Transfer record—consignee’s responsibility.**

(a) When a proprietor receives wine by transfer in bond from a bonded wine cellar as the consignee, that proprietor must complete the transfer record covering the transfer in accordance with § 24.284 of this chapter.

(b) When a proprietor receives spirits from an alcohol fuel plant or from customs custody, or receives spirits, denatured spirits, and wines from the bonded premises of another distilled spirits plant as the consignee, that proprietor must record the results of the receipt by including the following on the related transfer record:

(1) The date of receipt;

(2) A notation that the securing devices on the conveyance were, or were not, intact on arrival (not applicable to denatured spirits or spirits transferred in unsecured conveyances);

(3) The gauge of spirits, denatured spirits, or wine showing the tank number, proof (percent of alcohol by volume for wine) and specifications of the weight or volumetric determination of quantity, wine gallons or proof gallons received, and any losses or gains;

(4) A notation of any excessive in-transit loss, missing packages, tampering, or apparent theft;

(5) The account into which the spirits, denatured spirits, or wines were deposited (that is, production, storage or processing); and

(6) The signature and title of the consignee proprietor, with a penalty-of-perjury statement as prescribed in § 19.45.

(c) When spirits are transferred from customs custody as provided in subpart P of this part, the transfer record must contain the information specified in § 27.138 of this chapter.

(26 U.S.C. 5207)

**§ 19.622 Daily records of wholesale liquor dealer and taxpaid storeroom operations.**

(a) *General.* If a proprietor in connection with plant operations conducts wholesale liquor dealer operations, or operates a taxpaid storeroom on, or in the immediate vicinity of, general plant premises, or operates taxpaid storage premises at another location from which distilled spirits are not sold at wholesale, that proprietor must maintain daily records covering the receipt and disposition of all distilled spirits and wines and all reclosing and relabeling operations at those premises. The proprietor must keep separate records for each of those premises.

(b) *Receipt and disposition records.* The records covering receipt and disposition of distilled spirits and wines required under paragraph (a) of this section must show:

- (1) The date of the transaction (or date of discovery in the case of casualty or theft);
- (2) The name and address of each consignor or consignee, as the case may be;
- (3) The brand name;
- (4) The kind of spirits;
- (5) The actual quantity of distilled spirits involved (proof and proof gallons if in packages, wine gallons or liters and proof if in bottles);
- (6) The package identification or serial numbers of the packages involved;
- (7) The name of the producer; and
- (8) The country of origin in the case of imported spirits.

(c) *Case dispositions.* In addition to the records required under paragraph (b) of this section, the appropriate TTB officer may, upon notice, require the proprietor to record the case serial numbers for dispositions.

(d) *Reclosing or relabeling.* The records of reclosing and relabeling required under paragraph (a) of this section must include:

- (1) The date of the transaction;
- (2) The serial numbers of the cases involved;
- (3) The total number of bottles; and
- (4) The name of the bottler.

(26 U.S.C. 5114, 5555)

**§ 19.623 Records of inventories.**

(a) *General.* When conducting an inventory required by this part, the proprietor must prepare a record of the inventory taken. The record must include the following:

- (1) The date of the inventory;
- (2) The identity of the container(s);
- (3) The kind and quantity of spirits, denatured spirits, and wines;
- (4) Any losses (whether by theft, voluntary destruction or otherwise), gains or shortages; and

(5) The proprietor's signature, or the signature of the person taking the inventory, with the penalties of perjury statement as prescribed in § 19.45.

(b) *Overages, gains, or losses.* A proprietor must record in the daily records of operations, tank records, dump/batch records, bottling and packaging records, or denaturation records, as appropriate, any overages, gains, or losses disclosed by an inventory.

(c) *Retention.* A proprietor must retain inventory records and make them available for inspection by TTB officers. (26 U.S.C. 5207)

**§ 19.624 Removal of Puerto Rican and Virgin Islands spirits and rum imported from all other areas.**

(a) *General.* A proprietor must maintain separate accounts, in proof gallons, of Puerto Rican spirits having an alcoholic content of at least 92 percent rum, of Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of rum imported from all other areas removed from the processing account on determination of tax. A proprietor may determine the quantities of spirits in these categories that are contained in products mixed in processing with other alcoholic ingredients by using one of the methods referred to in paragraph (b), (c), or (d) of this section. The proprietor must report these quantities on the monthly report of operations referred to in § 19.632.

(b) *Standard method.* For purposes of maintaining the separate accounts referred to in paragraph (a) of this section, a proprietor may determine the quantities of spirits in those specified categories based on the least amount of those spirits that may be used in each product as stated in the approved form TTB F 5110.38, Formula for Distilled Spirits Under the Federal Alcohol Administration Act.

(c) *Averaging method.* For purposes of the separate accounts referred to in paragraph (a) of this section, a proprietor may determine the quantities of spirits in those specified categories by computing the average quantity of those spirits contained in all batches of the same product formulation manufactured during the preceding six-month period. The average must be adjusted at the end of each month in order to include only the preceding six-month period.

(d) *Alternative method.* If a proprietor wishes to use a method for determining the quantities of spirits as an alternative for a method prescribed in paragraphs (b) or (c) of this section, the proprietor must file an application with the appropriate TTB officer. The written application must specifically describe

the proposed alternative method and must explain the reasons for using the alternative method.

(26 U.S.C. 5555, 7652)

**§ 19.625 Shipping records for spirits and specially denatured spirits withdrawn free of tax.**

(a) *General.* A proprietor must prepare a shipping record when:

(1) Spirits are withdrawn free of tax in accordance with §§ 19.424(a) through (c);

(2) Specially denatured spirits are withdrawn free of tax in accordance with §§ 19.424(d) and 19.427; and

(3) Samples of specially denatured spirits in excess of five gallons are withdrawn in accordance with § 19.427(c);

(b) *Form of record.* The shipping record referred to in paragraph (a) of this section may be any commercial document, such as an invoice or bill of lading, so long as it reflects the following information:

- (1) The name and address of the consignor;
- (2) A serial number;
- (3) The date of shipment;
- (4) The name, address, and permit number of the consignee;
- (5) The kind of the spirits;
- (6) The proof of the spirits;
- (7) The formula number(s), for specially denatured spirits;
- (8) The number and size of the shipping containers;
- (9) The package identification numbers or serial numbers of the shipping containers; and
- (10) The total wine gallons (specially denatured spirits) or the total proof gallons (tax-free alcohol).

(c) *Disposition of the shipping record.* The proprietor must forward a copy of the shipping record to the company that receives the spirits and must retain a copy for its files.

(26 U.S.C. 5207)

**§ 19.626 Records of distilled spirits shipped to manufacturers of nonbeverage products.**

(a) *General.* When a proprietor ships distilled spirits to a manufacturer of nonbeverage products, the proprietor must prepare a record of the shipment, forward the original to the consignee, and retain a copy.

(b) *Form of record.* The record of shipment referred to in paragraph (a) of this section may consist of either the record of tax determination required by § 19.611 or any other document that contains the necessary information specified in paragraph (c) of this section.

(c) *Required information.* The record of shipment required under this section must contain the following information:

- (1) The name, address, and registry number of the proprietor;
- (2) The date of shipment;
- (3) The name and address of the consignee;
- (4) The kind, proof, and quantity of distilled spirits in each container;
- (5) The number of shipping containers of each size;
- (6) The package identification numbers or serial numbers of the containers;
- (7) The serial number of the applicable record of tax determination; and
- (8) For distilled spirits containing eligible wine or eligible flavors, the effective tax rate.

(26 U.S.C. 5201, 5207)

#### **§ 19.627 Alternating premises record.**

When distilled spirits plant bonded premises are alternated to or from bonded or taxpaid wine, brewery, manufacturer of nonbeverage products, or general premises, under an approved alternation plan described in the plant registration, the proprietor must record in a logbook, or must maintain in commercial records retrievable and available for TTB inspection upon request, the following information:

- (a) The date and hour of the alternation;
- (b) The kind of premises being curtailed, including the plant identification number, if applicable;
- (c) The kind of premises being extended, including the plant identification number, if applicable;
- (d) The identity of the special diagrams in the registration documents depicting the premises before and after the alternation; and
- (e) The purpose of the alternation.

(26 U.S.C. 5555)

#### **Filing Forms and Reports**

##### **§ 19.631 Submission of transaction forms.**

When required to submit a transaction form to the appropriate TTB officer under this part, the proprietor must submit the form no later than the close of business of the third business day following the day on which the transaction took place.

(26 U.S.C. 5207)

##### **§ 19.632 Submission of monthly reports.**

(a) Each proprietor must submit monthly reports of its distilled spirits plant operations to TTB in accordance with paragraph (b) of this section. The proprietor must submit the original reports to TTB and must retain a copy

for its records. The required monthly report forms are as follows:

- (1) Monthly Report of Production Operations, form TTB F 5110.40, except that no report is required when production operations are suspended as provided in § 19.292;
- (2) Monthly Report of Storage Operations, form TTB F 5110.11;
- (3) Monthly Report of Processing Operations, form TTB F 5110.28; and
- (4) Monthly Report of Processing (Denaturing) Operations, form TTB F 5110.43.

(b) Each proprietor must submit the monthly reports specified in paragraph (a) of this section to the Director, National Revenue Center, not later than the 15th day of the month following the close of the reporting period. A proprietor may submit monthly reports in either paper format or electronically via TTB Pay.gov.

(26 U.S.C. 5207)

##### **§ 19.634 Computer-generated reports and transaction forms.**

TTB will accept computer-generated reports of operations and transaction forms made using a computer printer on plain white paper without preapproval from TTB if they conform to the following standards:

- (a) The computer-generated report or form must approximate the physical layout of the corresponding TTB report or form, although the typeface may vary;
- (b) The text of the computer-generated report or form including each line entry, must exactly match the official TTB report or form; and
- (c) Each penalty of perjury statement specified for the TTB report or form must be reproduced in its entirety.

(26 U.S.C. 5207)

#### **Subpart W—Production of Vinegar by the Vaporizing Process**

##### **Vinegar Plants in General**

##### **§ 19.641 Application.**

(a) *In general.* This subpart covers the production of vinegar by the vaporizing process. It prescribes rules regarding the qualification, location, construction, and operation of vinegar plants and the maintenance of records of operations at vinegar plants.

(b) *Application of other regulations.* As a general rule, the provisions of subparts A through V and subpart X of this part do not apply to vinegar plants using the vaporizing process. However, the following sections do apply to vinegar plants using the vaporizing process: § 19.1 (definitions); § 19.11 (right of entry and examination); § 19.12 (furnishing facilities and assistance);

§ 19.52 (restriction on locations of plants); § 19.55 (other businesses); § 19.79 (registry of stills); § 19.573 (location of required records); § 19.574 (availability of records); § 19.575 (retention of records); and § 19.576 (preservation of records).

(26 U.S.C. 5501–5505)

#### **Qualification, Construction, and Equipment Requirements for Vinegar Plants**

##### **§ 19.643 Qualification requirements.**

Before beginning the business of manufacturing vinegar by the vaporizing process, a person must make written application to the appropriate TTB officer and receive approval of the application from TTB. The application must include:

- (a) The applicant's name and principal business address (including the plant address if different from the applicant's principal business address);
- (b) A description of the plant premises;
- (c) A description of the operations to be conducted; and
- (d) A description of each still, including the name and address of the owner, the kind of still and its capacity, and the purpose for which the still was set up.

(26 U.S.C. 5502)

##### **§ 19.644 Changes after original qualification.**

If there is any change in the information that was provided in an approved application, the proprietor of the vinegar plant must immediately notify the appropriate TTB officer in writing of the change. The notice must identify the change and the effective date of the change.

(26 U.S.C. 5502)

##### **§ 19.645 Notice of permanent discontinuance of business.**

If the proprietor of a vinegar plant decides to permanently discontinue operations, the proprietor must so notify the appropriate TTB officer in writing. The proprietor must include in the notice a statement regarding the status of each still.

(26 U.S.C. 5502)

##### **§ 19.646 Construction and equipment requirements.**

The proprietor of a vinegar plant must construct and equip the plant to ensure that:

- (a) The distilled spirits vapors that are separated by the vaporizing process from the mash are condensed only by introducing them into the water or other liquid used in making the vinegar; and

(b) The distilled spirits produced are accurately accounted for and are secure from unlawful removal from the premises or from unauthorized use.

(26 U.S.C. 5502)

### Rules for Operating Vinegar Plants

#### § 19.647 Authorized operations.

After approval of an application by TTB, a plant qualified for the production of vinegar may only:

(a) Produce vinegar by the vaporizing process; and

(b) Produce distilled spirits of 30° of proof or less for use in the manufacture of vinegar on the vinegar plant premises.

(26 U.S.C. 5501)

#### § 19.648 Conduct of operations.

A vinegar manufacturer qualified under this subpart may:

(a) Separate by a vaporizing process the distilled spirits from a mash; and

(b) Condense the distilled spirits vapors by introducing them into the water or other liquid to make the vinegar.

(26 U.S.C. 5504)

#### § 19.649 Restrictions on alcohol content.

No person may remove from the vinegar plant premises vinegar or other fluid or any other material containing more than 2 percent alcohol by volume.

(26 U.S.C. 5504)

### Required Records for Vinegar Plants

#### § 19.650 Daily records.

Each manufacturer of vinegar by the vaporizing process must keep accurate and complete daily records of production operations. It is not necessary to create records to satisfy this requirement if the records kept by the manufacturer in the ordinary course of business contain all required information. The required information consists of the following:

(a) The kind and quantity of fermenting or distilling materials received on the premises;

(b) The kind and quantity of materials fermented or mashed;

(c) The proof gallons of distilled spirits produced;

(d) The proof gallons of distilled spirits used in the manufacture of vinegar;

(e) The wine gallons of vinegar produced; and

(f) The wine gallons of vinegar removed from the premises.

(26 U.S.C. 5504)

### Liability for Distilled Spirits Tax

#### § 19.651 Liability for distilled spirits tax.

The distilled spirits excise tax imposed by 26 U.S.C. 5001 must be paid on any distilled spirits produced in, or removed from, the premises of a vinegar plant in violation of law or regulations.

(26 U.S.C. 5505)

### Subpart X—Distilled Spirits for Fuel Use

#### § 19.661 Scope.

This subpart covers the establishment and operation of alcohol fuel plants.

(26 U.S.C. 5181)

#### General

#### § 19.662 Definitions.

As used in this subpart, the following terms have the meanings indicated.

*Alcohol fuel plant.* A special type of distilled spirits plant authorized under 26 U.S.C. 5181 and established under this subpart solely for producing, processing, and storing, and using or distributing distilled spirits to be used exclusively for fuel use.

*Bonded premises.* The premises of an alcohol fuel plant where distilled spirits are produced, processed, and stored, and used or distributed as described in the application for alcohol fuel producer permit. The term includes the premises of small alcohol fuel plants exempt from bonding requirements under § 19.673(e).

*Fuel alcohol.* Distilled spirits that have been made unfit for beverage use at an alcohol fuel plant as provided in this subpart.

*Large plant.* An alcohol fuel plant that produces (including receives) more than 500,000 proof gallons of spirits per calendar year.

*Make unfit for beverage use.* Add materials to distilled spirits that will preclude their beverage use without impairing their quality for fuel use as prescribed and authorized by the provisions of this subpart.

*Medium plant.* An alcohol fuel plant that produces (including receives) more than 10,000 but not more than 500,000 proof gallons of spirits per calendar year.

*Permit.* The document issued pursuant to 26 U.S.C. 5181 and this subpart authorizing the person named to engage in business as an alcohol fuel plant.

*Plant.* An alcohol fuel plant.

*Proprietor.* The person qualified under this subpart to operate an alcohol fuel plant.

*Small plant.* An alcohol fuel plant that produces (including receives) not more than 10,000 proof gallons of spirits per calendar year.

*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 fuel alcohol unless specifically stated. The term does not include spirits produced from petroleum, natural gas, or coal.

*Transfer in bond.* The transfer of spirits between alcohol fuel plants or between a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

(26 U.S.C. 5181)

#### § 19.663 Application of other provisions.

The provisions of 26 U.S.C. chapter 51 and the regulations in subparts A through W of this part do not apply to alcohol fuel plants except for the following:

(a) 26 U.S.C. 5181;

(b) The definitions contained in § 19.1, unless the same term is defined in this subpart;

(c) Any provision incorporated by reference in this subpart;

(d) Any provision requiring the payment of tax; and

(e) Any provision applicable to distilled spirits that deals with penalty, seizure, or forfeiture.

(26 U.S.C. 5181)

#### § 19.665 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 subpart or from any regulatory requirements in subparts A through W of this part that have been incorporated by reference in this subpart. The appropriate TTB officer may approve the use of an alternate method or procedure only 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 merely waiving an existing regulatory requirement;

(3) Is consistent with the purpose and effect of the method or procedure prescribed in this subpart;

(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 subpart.

(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. 5181)

**§ 19.666 Application for and use of an alternate method or procedure.**

(a) *Application.* If a proprietor wishes to use an alternate method or procedure as described in § 19.665, 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 letterhead 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. 5181)

**§ 19.667 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 subpart or from any regulatory requirement in subparts A through W of this part that have been incorporated by reference in this subpart. 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, immediately notify the appropriate TTB officer by telephone of the action and then file the required written application as soon as possible. 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 of the laws or regulations, or that the proprietor has failed to follow any of the conditions specified in the approval. When use of the emergency method or procedure terminates, the proprietor must revert to full compliance with all applicable regulations.

(26 U.S.C. 5181)

**Liability for Taxes**

**§ 19.669 Distilled spirits taxes.**

(a) Proprietors may withdraw distilled spirits free of tax from an alcohol fuel plant if the spirits are withdrawn exclusively for fuel use in accordance with this subpart. However, TTB will require payment of the tax if the spirits are diverted to beverage use or to another use not authorized by this subpart.

(b) The following provisions of this part apply to distilled spirits for fuel use:

- (1) Imposition of tax liability (§§ 19.222, 19.223, and 19.225);
- (2) Assessment of tax (§§ 19.253 and 19.254); and
- (3) Claims for tax (§§ 19.262 and 19.263).

(26 U.S.C. 5001, 5181)

**§ 19.670 Dealer registration and recordkeeping.**

An alcohol fuel plant that sells spirits that have not been rendered unfit for beverage use is subject to the requirements of subpart H of this part, except that the reference in § 19.202 to "subpart D" should be taken to refer to subpart X.

(26 U.S.C. 5181)

**Obtaining a Permit**

**§ 19.672 Types of plants.**

There are three types of alcohol fuel plants: Small plants, medium plants, and large plants. All alcohol fuel plants are classified according to the amount of spirits that they will produce and receive during each calendar year. When applying for a permit, an applicant should apply for the type of permit that fits the applicant's needs based on the type of alcohol fuel plant the applicant intends to operate.

(26 U.S.C. 5181)

**§ 19.673 Small plant permit applications.**

(a) *General.* Any person wishing to establish a small plant must file form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, with the appropriate TTB officer. Except as otherwise provided in § 19.674(d), a person may not commence operations before issuance of the permit.

(b) *Application information.* The applicant for a small plant permit must include the following information with the application:

- (1) Name and mailing address of the applicant, and the location of the plant if not the same as the mailing address;
- (2) A diagram of the plant premises;
- (3) A statement regarding ownership of the premises. If the premises are not



owned by the applicant, the owner's consent for access by TTB officers must be furnished;

(4) A description of the stills on the premises and a statement of the maximum capacity of each;

(5) A description of the materials from which spirits will be produced; and

(6) A description of the security measures to be used to protect the premises, buildings, and equipment where spirits are produced, processed, and stored.

(c) *Information already on file.* If any of the information required by this section is already on file with TTB and the information is accurate and complete, the applicant may advise the appropriate TTB officer that the information on file is incorporated by reference and made part of the application, unless the applicant will not conduct bona fide production operations.

(d) *Additional information.* When required by the appropriate TTB officer, the applicant must furnish, as part of the application for a permit under this section, any additional information required by TTB to determine whether the application should be approved.

(e) *Bonds.* The applicant is not required to provide a bond in order to establish a small plant, unless the applicant will not conduct bona fide production operations. Plants for the receipt of spirits without production must furnish a bond in accordance with § 19.699 with a penal sum as prescribed in § 19.700. The appropriate TTB officer must approve the bond before issuance of the permit.

(26 U.S.C. 5181)

#### **§ 19.674 TTB action on small plant applications.**

(a) *Notice of receipt.* Within 15 days of receipt of an application for a small plant permit, the appropriate TTB officer will send a written notice of receipt to the applicant. The notice will include a statement as to whether the application meets the requirements of § 19.673. If the application does not meet the requirements of § 19.673, the appropriate TTB officer will return the application to the applicant, and a new 15-day period will commence upon receipt of an amended or corrected application.

(b) *Action on application.* Within 45 days from the date that the appropriate TTB officer sent the applicant a notice of receipt of a completed application for a small plant permit, the appropriate TTB officer will either issue the permit or give notice in writing to the applicant stating in detail the reason that a permit will not be issued. Denial of an

application will not prejudice any later application for a permit by the same applicant.

(c) *Failure to give notice.* If the notice of receipt required by paragraph (a) is not sent, and the applicant has a receipt indicating that the appropriate TTB officer received the application, the 45-day period provided for in paragraphs (b) and (d) of this section will commence on the fifteenth day after the date the appropriate TTB officer received the application.

(d) *Presumption of approval.* If, within 45 days from the date of the notice to the applicant of receipt of a completed application for a small plant permit, the appropriate TTB officer has not notified the applicant of issuance of the permit or denial of the application, the application will be deemed approved and the applicant may proceed as if a permit had been issued.

(e) *Limitation.* The provisions of paragraphs (a) and (c) of this section apply only to the first application submitted for any one small plant in any calendar quarter and to an amended or corrected first application.

(26 U.S.C. 5181)

#### **§ 19.675 Medium plant permit applications.**

(a) *General.* Any person wishing to establish a medium plant must file form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, with the appropriate TTB officer.

(b) *Application information.* The applicant for a medium plant permit must include the following information with the application:

(1) Name and mailing address of the applicant, and the location of the plant if not the same as the mailing address;

(2) A diagram of the plant premises;

(3) A statement regarding ownership of the premises. If the premises are not owned by the applicant, the owner's consent for access by TTB officers must be furnished;

(4) A description of the stills on the premises and a statement of the maximum capacity of each;

(5) A description of the materials from which spirits will be produced;

(6) A description of the security measures to be used to protect the premises, buildings, and equipment where spirits are produced, processed, and stored;

(7) A statement of the maximum total proof gallons of spirits that will be produced and received during a calendar year;

(8) Information identifying the principal persons involved in the business. This identifying information must include each person's name,

address, title, social security number, date of birth, and place of birth;

(9) A statement indicating whether or not the applicant or any other principal person involved in the business has been convicted of a felony or misdemeanor under Federal or State law. The statement may exclude convictions for misdemeanor traffic violations; and

(10) A statement of the amount and source of funds invested in the business.

(c) *Bond.* The applicant for a medium plant permit must provide a bond in accordance with § 19.699 with a sufficient penal sum as prescribed in § 19.700. The applicant must submit the bond on form TTB F 5110.56, Distilled Spirits Bond, and the appropriate TTB officer must approve the bond before issuance of the permit.

(d) *Information already on file.* If any of the information required by this section is already on file with TTB and the information is accurate and complete, the applicant may advise the appropriate TTB officer that the information on file is incorporated by reference and made part of the application.

(e) *Additional information.* When required by the appropriate TTB officer, the applicant must furnish, as part of the application for a permit under this section, any additional information required by TTB to determine whether the application should be approved.

(f) *Approval of permit.* The applicant may not commence operations before approval of the application and issuance of the medium plant permit.

(26 U.S.C. 5181)

#### **§ 19.676 Large plant permit applications.**

(a) *General.* Any person wishing to establish a large plant must file form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, with the appropriate TTB officer.

(b) *Application information.* The applicant for a large plant permit must include the following information with the application:

(1) Name and mailing address of the applicant, and the location of the plant if not the same as the mailing address;

(2) A diagram of the plant premises;

(3) A statement regarding ownership of the premises. If the premises are not owned by the applicant, the owner's consent for access by TTB officers must be furnished;

(4) A description of the stills on the premises and a statement of the maximum capacity of each;

(5) A description of the materials from which spirits will be produced;

(6) A description of the security measures to be used to protect the premises, buildings, and equipment where spirits are produced, processed, and stored;

(7) A statement of the maximum total proof gallons of spirits that will be produced and received during a calendar year;

(8) Information identifying the principal persons involved in the business. This identifying information must include each person's name, address, title, social security number, date of birth, and place of birth;

(9) A statement indicating whether or not the applicant or any of the principal persons involved in the business has been convicted of a felony or misdemeanor under Federal or State law. The statement may exclude convictions for misdemeanor traffic violations;

(10) A statement of the amount and source of funds invested in the business; and

(11) A statement identifying the type of business organization and the persons having an ownership interest in the business. The applicant must support this statement by providing the information specified in § 19.677.

(c) *Bond.* The applicant for a large plant permit must provide a bond in accordance with § 19.699 with a sufficient penal sum as prescribed in § 19.700. The applicant must submit the bond on form TTB F 5110.56, Distilled Spirits Bond, and the appropriate TTB officer must approve the bond before issuance of the permit.

(d) *Power of attorney.* The applicant for a large plant permit, or the proprietor of the plant if different from the applicant, must execute and file with the appropriate TTB officer form TTB F 5000.8, Power of Attorney, for each person authorized to sign or act on behalf of the proprietor unless that authority has been furnished elsewhere in the application.

(e) *Information already on file.* If any of the information required by this section is already on file with TTB and the information is accurate and complete, the applicant may advise the appropriate TTB officer that the information on file is incorporated by reference and made part of the application.

(f) *Additional information.* When required by the appropriate TTB officer, the applicant must furnish as part of the application for a permit under this section, any additional information required by TTB to determine whether the application should be approved.

(g) *Approval of permit.* The applicant may not commence operations before

approval of the application and issuance of the large plant permit.

(26 U.S.C. 5181)

#### **§ 19.677 Large plant applications—organizational documents.**

In addition to the information required by § 19.676, any person who wants to establish a large plant must provide with the application the documents and other information specified in paragraphs (a) through (d) of this section, as applicable, and must make those and related documents available for inspection by TTB as provided in paragraph (e) of this section.

(a) *Corporate documents.* If the applicant is a corporation, the applicant must provide the following:

(1) The corporate charter or a certificate of corporate existence or incorporation;

(2) A list of officers and directors with their names and addresses, other than officers and directors who will have no responsibilities in connection with the operation of the alcohol fuel plant;

(3) Certified minutes or extracts of board of directors meetings, showing those individuals authorized to sign for the corporation;

(4) A statement showing the number of shares of each class of stock or other basis of ownership, authorized and outstanding, and the voting rights of the respective owners or holders; and

(5) A list of the offices or positions, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the proprietor's name.

(b) *Partnership documents.* If the applicant is a partnership, the applicant must provide a copy of the articles of partnership or association, or certificate of partnership or association if required to be filed by any State, county, or municipality.

(c) *Limited liability company/limited liability partnership documents.* If the applicant is a limited liability company or limited liability partnership or other entity recognized by law as a person, the applicant must provide a copy of the articles of organization, the operating agreement and the names and addresses of all members and managers.

(d) *Statement of interest.* (1) The application must include the names and addresses of the 10 persons that have the largest stock ownership, by stock class, or other interest in the corporation, limited liability company/limited liability partnership, or other legal entity, and the nature and amount of the stock or other interest of each, whether the interest is recorded in the

name of the interested party or in the name of another for the interested party. If a corporation is wholly owned or controlled by another corporation, the appropriate TTB officer may request that the applicant furnish the same information for persons of the parent corporation.

(2) In the case of an individual owner or a partnership, the application must include the name and address of each person interested in the large plant, whether the interest is recorded in the name of the interested party or in the name of another for the interested party.

(e) *Availability of documents.* An applicant must make available to any appropriate TTB officer upon request all originals of documents submitted under this section and any additional related organizational documents such as articles of incorporation, bylaws, operating agreements and State certifications.

(26 U.S.C. 5181, 5271)

#### **§ 19.678 Criteria for issuance of permit.**

As a general rule, the appropriate TTB officer will issue an alcohol fuel plant permit to any person who completes the required application for a permit and, when required, furnishes a bond.

However, the appropriate TTB officer may begin proceedings to deny an application for a permit, in accordance with part 71 of this chapter, if the appropriate TTB officer determines that—

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. chapter 51, or the regulations issued thereunder;

(b) The applicant failed to disclose any material information required with the application, or has made any false statement as to any material fact in connection with the application; or

(c) The premises where the applicant proposes to conduct the operations are not adequate to protect the revenue.

(26 U.S.C. 5181, 5271)

#### **§ 19.679 Duration of permit.**

The proprietor of an alcohol fuel plant may conduct the operations authorized by the permit on a continuing basis unless:

(a) The proprietor voluntarily surrenders the permit;

(b) TTB suspends or revokes the permit pursuant to § 19.697; or

(c) The permit is automatically terminated under its own terms or in accordance with § 19.684.

(26 U.S.C. 5181)

**§ 19.680 Registration of stills.**

The description of stills provided with the application for an alcohol fuel plant permit under this subpart will fulfill the requirement to register a still under § 29.55 of this chapter.

(26 U.S.C. 5179, 5181)

**Changes to Permit Information****§ 19.683 Changes affecting permit applications.**

(a) *General.* If there is a change relating to any of the information contained in, or considered a part of, the application on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, the proprietor must amend the information previously submitted within 30 days of the change unless another time period is specified in this subpart.

(b) *Amended TTB F 5110.74.* Except when a letterhead application or letterhead notice procedure is followed under this subpart, the proprietor must submit an amended application to the appropriate TTB officer on TTB F 5110.74 within 30 days of a change referred to in paragraph (a) of this section if the change affects the terms and conditions of the permit.

(c) *Letterhead applications.* For the changes specified in §§ 19.685(c), 19.686, and 19.690 of this subpart, the proprietor may submit a letterhead application to the appropriate TTB officer for a change instead of filing an amended TTB F 5110.74. A letterhead application must be on letterhead signed by an authorized representative of the permit holder. The letterhead application must identify the alcohol fuel plant to which the application applies. The letterhead application change is subject to TTB approval. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.74 if administrative difficulties occur as a result of the letterhead application.

(d) *Letterhead Notices.* For the changes specified in §§ 19.687, 19.695, and 19.691 of this subpart only a letterhead notice to the appropriate TTB officer is required. A letterhead notice must be on letterhead signed by an authorized representative of the permit holder. A letterhead notice does not require approval action by TTB. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.74 if administrative difficulties occur as a result of the letterhead notice.

(26 U.S.C. 5271, 5181)

**§ 19.684 Automatic termination of permits.**

(a) *Permits not transferable.* An alcohol fuel plant permit is not transferable and, except as otherwise provided in paragraph (b) of this section, will automatically terminate if:

(1) The operations that are authorized by the permit are leased, sold, or transferred to another person; or

(2) The permit holder is dissolved on a date certain or upon an event specified by the laws of the State where the permit holder operates.

(b) *Corporations.* In the case of a corporation holding a permit under this subpart, if actual or legal control of that corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permit may remain in effect until the expiration of 30 days after the change, whereupon the permit will automatically terminate. However, if operations are to be continued after the change in control, and an application for a new permit is filed within 30 days of the change, the outstanding permit may remain in effect until final action is taken on the new application. When final action is taken on the application, the outstanding permit will automatically terminate.

(26 U.S.C. 5181, 5271)

**§ 19.685 Change in type of alcohol fuel plant.**

(a) *Small plants.* If the proprietor of a small plant intends to increase production (including receipts) to more than 10,000 proof gallons of spirits per calendar year, the proprietor must first obtain an amended permit by filing an application for a medium plant or a large plant, as appropriate, under §§ 19.675 or 19.676. If any of the required information is already on file with TTB, that information may be incorporated by reference in the new application. The proprietor must also provide a new or strengthening bond in accordance with §§ 19.699 and 19.700.

(b) *Medium plants.* If the proprietor of a medium plant intends to increase production (including receipts) to more than 500,000 proof gallons of spirits per calendar year, the proprietor must first obtain an amended permit by filing an application for a large plant under § 19.676. If any of the required information is already on file with TTB, that information may be incorporated by reference in the new application. If the penal sum of the proprietor's current bond is below the amount specified for the new production level, the proprietor

must obtain a new or strengthening bond in accordance with § 19.700.

(c) *Curtailment of activities.* A proprietor of a medium or large plant who curtails operations to a level whereby the proprietor is eligible to requalify as a small or medium plant may so qualify by submitting a letterhead application to the appropriate TTB officer for approval. If the appropriate TTB officer approves the application, the proprietor automatically will be relieved of those regulatory requirements that apply only to the superseded qualification. In addition, in the case of a change to small plant status, the proprietor may be allowed to terminate the bond in accordance with the procedure set forth in § 19.170 of this part.

(26 U.S.C. 5181, 5271)

**§ 19.686 Change in name of proprietor.**

When there is a change in the name of the individual, firm, corporation, or other entity holding the permit, the proprietor must file an application to amend the permit on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, or file a letterhead application to amend the permit within 30 days of the change. The proprietor is not required to file a new bond or consent of surety in this case.

(26 U.S.C. 5172, 5271, 5181)

**§ 19.687 Changes in officers, directors, members, managers, or principal persons.**

If there is a change in the list of officers, directors, members, managers, or other principal persons furnished under the provisions of § 19.675, § 19.676, or § 19.677, the proprietor must submit a letterhead notice to the appropriate TTB officer within 30 days of the change. The letterhead notice must identify each change and must include the following identifying information for each new officer, director, member, manager, or other principal person: name, address, title, social security number, date of birth, and place of birth.

(26 U.S.C. 5181)

**§ 19.688 Change in proprietorship.**

(a) *General.* If there is a change in proprietorship at an alcohol fuel plant, the following requirements apply to the outgoing proprietor and to the new, incoming proprietor:

(1) The outgoing proprietor must comply with the notice requirements of § 19.695; and

(2) The incoming successor proprietors must—

(i) File and obtain a permit on form TTB F 5110.74, Application and Permit

for an Alcohol Fuel Producer Under 26 U.S.C. 5181; and

(ii) File the required bond, if any.

(b) *Fiduciary responsibilities.* A successor to the proprietorship of an alcohol fuel plant who is an administrator, executor, receiver, trustee, assignee, or other fiduciary must comply with paragraph (a)(2) of this section. In addition, the following rules apply to a successor who is a fiduciary:

(1) The successor may furnish a consent of surety to extend the terms of the outgoing proprietor's bond instead of filing a new bond;

(2) The successor may incorporate by reference in the application on TTB F 5110.74 any information that is still valid and that was contained in the application filed by the outgoing proprietor;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document appointing the successor as a fiduciary; and

(4) The effective dates of the qualifying documents filed will be the date of the court order, the date specified in the court order for assuming control or the date control is assumed if the fiduciary was not appointed by a court.

(26 U.S.C. 5172, 5181)

#### **§ 19.689 Continuing partnerships.**

(a) If there is a death or insolvency of a partner in the business that holds a permit under this subpart, the surviving partner or partners may continue to operate under the permit if:

(1) The partnership is not immediately terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have the exclusive right to control and possession of the partnership assets for purpose of liquidation and settlement; and

(3) In the case of a plant required to file a bond, a consent of surety is filed under which the surety and the surviving partner or partners agree to remain liable on the bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file an application in their own name and receive a permit in accordance with § 19.688(a).

(26 U.S.C. 5172, 5181)

#### **§ 19.690 Change in location.**

If there is a change in the location of the alcohol fuel plant or of the area included within the plant premises, the proprietor must:

(a) File an application to amend the permit on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, or a letterhead application to amend the permit;

(b) File a new bond on form TTB F 5110.56 or a consent of surety on form TTB F 5000.18 if a bond is required; and

(c) Not begin operations at the new location prior to approval of the amended application and issuance of the amended permit.

(26 U.S.C. 5172, 5181)

#### **§ 19.691 Change in address without change in location or area.**

If there is a change in the address of an alcohol fuel plant that does not involve a change in the location or area of the plant itself, the proprietor must submit a letterhead notice to the appropriate TTB officer within 30 days of the change.

(26 U.S.C. 5172, 5181)

#### **Alternating Proprietorship**

##### **§ 19.692 Qualifying for alternating proprietorship.**

(a) *General.* A proprietor may alternate use of an alcohol fuel plant or part of an alcohol fuel plant with one or more proprietors qualified under this subpart. In order to do so, each proprietor must file and receive approval of the applications and bonds required by this subpart. Each proprietor must also conduct operations and keep records in accordance with this subpart. Where operations by alternating proprietors will be limited to part of an alcohol fuel plant, that part must be suitable for qualification as a separate alcohol fuel plant.

(b) *Qualifying documents.* Each person desiring to operate an alcohol fuel plant as an alternating proprietor must file the following with the appropriate TTB officer:

(1) An application on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, to cover the proposed alternation;

(2) A diagram of the premises, in duplicate, showing the arrangement for the alternation of the premises. Where operations by alternating proprietors are limited to parts of an alcohol fuel plant, a diagram designating the parts that are to be alternated must be submitted. A diagram must be submitted for each arrangement under which the premises will be operated. The diagram must be in sufficient detail to establish the boundaries of the alcohol fuel plant or any part of it that will be involved in the alternation;

(3) Evidence of an existing operations bond (if any), consent of surety, or new operations bond to cover the proposed alternation of premises; and

(4) Any additional information required by the appropriate TTB officer. (26 U.S.C. 5171, 5181, 5271)

#### **§ 19.693 Operating requirements for alternating proprietorships.**

(a) *Alternation journal.* Once the applications submitted under § 19.692 have been approved by the appropriate TTB officer, the alcohol fuel plant, or parts of the alcohol fuel plant, may be alternated. The outgoing and incoming proprietor must make entries in an alternation journal when the alcohol fuel plant, or parts of it, are alternated. The outgoing and incoming proprietor must enter the following information in the alternation journal:

(1) Name or trade name of the proprietor;

(2) Alcohol fuel plant permit number;

(3) Date and time of alternation;

(4) Quantity of spirits transferred in proof gallons.

(b) *Commencement of operations.* Except for spirits transferred to the incoming proprietor, the outgoing proprietor must remove all spirits from areas, rooms, or buildings to be alternated, prior to the effective date and time shown in the alternation journal. Fuel alcohol may be transferred to the incoming proprietor or may be retained by the outgoing proprietor in areas, rooms, or buildings to be alternated when the areas, rooms, or buildings are secured with locks, the keys to which are in the custody of the outgoing proprietor. Whenever operation of the areas, rooms, or buildings is to be resumed by a proprietor following suspension of operations by an alternating proprietor, the outgoing proprietor (except the proprietor of a small plant not required to file a bond) must furnish a consent of surety on form TTB F 5000.18 to continue in effect the operations bond covering his operations. The proprietor must do this prior to alternating the premises.

(c) *Records.* Each alternating proprietor must maintain separate records and submit separate reports in accordance with § 19.720. Entries in each proprietor's records must be in accordance with §§ 19.714 through 19.718 of this subpart. The following requirements also apply:

(1) Each alternating proprietor must show all transfers of spirits in the records;

(2) The outgoing proprietor must show in its production and disposition records the quantity of spirits and fuel

alcohol transferred to the incoming proprietor;

(3) The incoming proprietor must show in his receipt record the quantity of spirits received by transfer;

(4) Each proprietor must include spirits transferred in the determinations of alcohol fuel plant size and bond amounts; and

(5) The provisions of § 19.685 regarding change of alcohol fuel plant type apply to each proprietor.

(26 U.S.C. 5171, 5181, 5271)

**Discontinuance of Business and Permit Suspension or Revocation**

**§ 19.695 Notice of permanent discontinuance.**

When a proprietor permanently discontinues operations as an alcohol fuel plant, the proprietor must file a letterhead notice with the appropriate TTB officer along with the following:

(a) The original copy of the alcohol fuel plant permit and the proprietor's request that the permit be cancelled;

(b) A written statement disclosing whether or not all spirits, including fuel alcohol, have been lawfully disposed of, and whether or not there are any spirits in transit to the premises; and

(c) A report on form TTB 5110.75, Alcohol Fuel Plant Report, covering the discontinued operations, with the report marked "Final Report".

(26 U.S.C. 5181, 5271)

**§ 19.697 Permit suspension or revocation.**

TTB will conduct proceedings to revoke or suspend an alcohol fuel plant permit in accordance with the procedures set forth in part 71 of this chapter if the appropriate TTB officer has a reason to believe that a person holding a permit:

(a) Has not complied in good faith with the provisions of 26 U.S.C. chapter 51 or the regulations issued thereunder;

(b) Has violated the conditions of the permit;

(c) Has made a false statement as to any material fact in the application for the permit;

(d) Has failed to disclose any material information required to be furnished under this part;

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor;

(f) Has been convicted of any offense under title 26 U.S.C. punishable as a felony or of any conspiracy to commit such offense; or

(g) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years.

(26 U.S.C. 5271)

**Bonds**

**§ 19.699 General bond requirements.**

(a) *Operations bond.* Any person who plans to establish a large plant, a medium plant, or a small plant without production operations must provide an operations bond on form TTB F 5110.56, Distilled Spirits Bond, in duplicate, with the original permit application. If a proprietor fails to pay any liability covered by the bond, TTB may seek payment from the proprietor, from the surety on the bond, or from both the proprietor and the surety. Additional provisions applicable to bonds for alcohol fuel plants are found in subpart F of this part in §§ 19.155 through 19.157 and §§ 19.167 through 19.173.

(b) *Corporate surety.* A company that issues bonds is called a "corporate surety." Proprietors must obtain the surety bonds required by this subpart from a corporate surety approved by the Secretary of the Treasury. The Department of the Treasury publishes a list of approved corporate sureties in Treasury Department Circular No. 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies." Circular No. 570 is published annually in the **Federal Register**. The most current edition of the circular is posted at the Web site of the Financial Management Service, Department of the Treasury, at <http://www.fms.treas.gov/c570>. Printed copies of Circular No. 570 are available for purchase from the Government Printing Office.

(c) *Alternative to a corporate surety.* A proprietor may also guarantee payment under a bond without using a corporate surety, by filing a bond that guarantees payment of the liability by pledging and depositing one or more acceptable negotiable securities having a par value (face amount) equal to or greater than the penal sums of the required bonds. Should the proprietor fail to pay one or more of the guaranteed liabilities, TTB may take action to sell the deposited securities to satisfy the debt. Pledged securities will be released to the proprietor if there are no outstanding liabilities when the bond is terminated; the provisions of § 19.173 apply to the release of pledged securities under this subpart. A list of securities acceptable as collateral in lieu of surety bonds is available from the Bureau of the Public Debt, Office of the Commissioner, Government Securities Regulations Staff. Current information and guidance from the Bureau of the Public Debt Web site may be found at <http://www.publicdebt.treas.gov>.

(26 U.S.C. 5173, 5181; 31 U.S.C. 9301, 9303, 9304, 9306)

**§ 19.700 Amount of bond.**

A proprietor must determine the penal sum of the bond based on the total quantity of distilled spirits that will be produced and received during a calendar year. The method for computing required bond amounts is as follows:

(a) *Small plants without production operations.* A proprietor that operates a small plant that receives not more than 10,000 proof gallons of spirits per year and does not conduct bona fide production operations must provide a bond with a penal sum of \$1,000.

(b) *Medium plants.* A proprietor that operates a medium plant that produces and receives more than 10,000 but not more than 20,000 proof gallons of spirits per year must provide a bond with a penal sum of at least \$2,000.00. The proprietor must increase the penal sum of the bond by \$1,000 for each additional 10,000 gallons, or fraction of 10,000 gallons, (over 20,000 gallons) that will be produced or received. The maximum bond for a medium plant is \$50,000.00, representing the penal sum applicable to 500,000 proof gallons. The following table provides examples of required minimum bond amounts:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

More than	But not over	Amount of bond
10,000	20,000	\$2,000
20,000	30,000	3,000
90,000	100,000	10,000
190,000	200,000	20,000
490,000	500,000	50,000

(c) *Large Plants.* A proprietor that operates a large plant that produces and receives more than 500,000 but not more than 510,000 proof gallons of spirits per year must provide a bond with a penal sum of at least \$52,000.00. The proprietor must increase the penal sum of the bond by \$2,000 for each additional 10,000 gallons, or fraction of 10,000 gallons (over 510,000 gallons) that will be produced and received. The maximum bond for a large plant is \$200,000.00. The following table provides examples of required minimum bond amounts:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

More than	But not over	Amount of bond
500,000	510,000	\$52,000

ANNUAL PRODUCTION AND RECEIPTS  
IN PROOF GALLONS—Continued

More than	But not over	Amount of bond
510,000	520,000	54,000
740,000	750,000	100,000
990,000	1,000,000	150,000
1,240,000	—	200,000

(d) *New or strengthening bonds.* A proprietor must obtain a new bond or a strengthening bond in accordance with § 19.167 if the level of production and receipts at the alcohol fuel plant increases so that the current bond no longer is in the amount of at least the required minimum penal sum.

(26 U.S.C. 5173, 5181)

**Requirements for Construction, Equipment, and Security****§ 19.703 Construction and equipment.**

A proprietor must construct and arrange the buildings and enclosures where distilled spirits will be produced, processed, or stored so as to ensure adequate security and deter the diversion of spirits. Distilling equipment must be constructed to prevent unauthorized removal of spirits, from the point where distilled spirits come into existence until production is complete and the quantity of spirits has been determined. A proprietor also must equip tanks and other vessels so that they may be locked and must provide a method for determining the quantity of spirits in each vessel.

(26 U.S.C. 5178)

**§ 19.704 Security.**

(a) *General.* The proprietor of an alcohol fuel plant must provide adequate security measures at the alcohol fuel plant in order to protect against the unauthorized removal of spirits.

(b) *Storage.* The proprietor must store spirits in a building or a storage tank, or within an enclosure, that will be kept locked when operations are not being conducted.

(c) *Additional security.* The appropriate TTB officer may require additional security measures for the premises if the alcohol fuel plant's security is found to be inadequate. The additional measures required may depend upon past security problems experienced at the alcohol fuel plant, the volume of alcohol produced, the risk to tax revenue, and any safety requirements. Additional security measures may include, but are not limited to:

(1) A fence around the alcohol fuel plant;

- (2) Flood lights;
- (3) A security or alarm system;
- (4) A guard service; or
- (5) Locked or barred windows.

(26 U.S.C. 5178, 5202)

**TTB Rights and Authorities****§ 19.706 Supervision of operations.**

TTB may assign appropriate TTB officers to supervise operations at an alcohol fuel plant at any time. Appropriate TTB officers may exercise certain rights and authorities at an alcohol fuel plant. Those rights and authorities are set forth in the following provisions of this part: § 19.11 (right of entry and examination, § 19.12 (furnishing facilities and assistance), § 19.13 (assignment of officers and supervision of operations), § 19.17 (detention of containers), § 19.18 (samples for the United States), and § 19.282 (general requirements for gauging and measuring equipment).

(26 U.S.C. 5201, 5202, 5203, 5204, 5207, 5213, 5555)

**Accounting for Spirits****§ 19.709 Gauging.**

(a) *Gauging equipment and methods.* A proprietor of an alcohol fuel plant must perform periodic gauges of the distilled spirits and fuel alcohol at the alcohol fuel plant. The procedures for the gauging of spirits set forth in part 30 of this chapter also apply under this subpart. In addition, the following rules for the gauging of distilled spirits and fuel alcohol under this subpart also apply:

(1) The proprietor must determine the proof of spirits by using a glass cylinder, hydrometer and thermometer;

(2) The proprietor must ensure that hydrometers, thermometers, and other equipment used to determine proof, volume, or weight are accurate;

(3) The proprietor may determine the quantity of spirits or fuel alcohol either by volume or weight;

(4) To determine quantity by volume, the proprietor may use a tank or receptacle with a calibrated sight glass installed, a calibrated dipstick, conversion charts, an accurate mass flow meter, or other devices approved by the appropriate TTB officer;

(5) Unless the proprietor chooses to do so, the proprietor is not required to determine the proof of fuel alcohol manufactured, on hand, or removed; and

(6) The proprietor may account for fuel alcohol in wine gallons;

(b) *Verification by TTB.* TTB officers may at any time verify the accuracy of the gauging equipment used.

(c) *When gauges are required.* A proprietor must gauge spirits and record the results in the records required by § 19.718, at the following times:

(1) Upon completing the production of distilled spirits;

(2) On the receipt of spirits at the plant;

(3) Prior to the addition of materials to render the spirits unfit for beverage use;

(4) Before withdrawal from plant premises or other disposition of spirits (including fuel alcohol); and

(5) When spirits are inventoried.

(26 U.S.C. 5201, 5204)

**§ 19.710 Inventory of spirits.**

A proprietor of an alcohol fuel plant must take a physical inventory of all spirits and fuel alcohol on the bonded premises at the end of each calendar year. The proprietor must record the results of this physical inventory in the records required by § 19.718.

(26 U.S.C. 5201)

**Recordkeeping****§ 19.714 General requirements for records.**

A proprietor of an alcohol fuel plant must maintain records that accurately reflect the operations and transactions at the alcohol fuel plant. The records must contain sufficient information to allow appropriate TTB officers to determine the quantities of spirits produced, received, stored, or processed and to verify that all spirits have been used or otherwise lawfully disposed of.

(26 U.S.C. 5207)

**§ 19.715 Format of records.**

(a) Proprietors of alcohol fuel plants are not required under this subpart to keep their records in any particular format or media. A proprietor may keep required records on paper, microfilm or microfiche, diskette, or other electronic medium. However, the records that a proprietor maintains must be readily retrievable in, or convertible to, hardcopy format for review by TTB officers as necessary.

(b) Required records may consist of commercial documents maintained in the ordinary course of business, rather than records prepared expressly to meet the requirements of this subpart, if those documents:

(1) Contain all of the information required by this subpart;

(2) Reflect general standards of clarity and accuracy; and

(3) Can be readily understood by TTB personnel.

(c) Where the format or arrangement of a record is such that the information is not readily understandable, the

appropriate TTB officer may require the proprietor to present the information in a format or arrangement that will facilitate the review of the information.

(26 U.S.C. 5207)

**§ 19.716 Maintenance and retention of records.**

(a) A proprietor of an alcohol fuel plant may keep the records required by this subpart at the alcohol fuel plant where operations or transactions occur, or at a central recordkeeping location maintained by the proprietor. If the proprietor keeps the required records at any location other than the alcohol fuel plant where operations or transactions occur, the proprietor must submit a letterhead notice to the appropriate TTB officer indicating the location where the records are kept. The proprietor must make those records available at the alcohol fuel plant premises to which they relate during normal business hours for the purpose of a TTB audit or inspection. The proprietor must produce those records at that location within two days of notice by the appropriate TTB officer.

(b) A proprietor of an alcohol fuel plant must maintain any records required by this subpart for a period of not less than three years from the date of creation of the record or the date of the last entry required to be made in the record, whichever is later.

(c) A proprietor of an alcohol fuel plant may be required to reproduce records in order to maintain their readability and availability for inspection. Whenever any record might become unreadable or otherwise unsuitable for its intended or continued use, the proprietor is responsible for reproducing the record by a process that accurately and legibly reproduces the original record.

(d) For records kept on electronic media, the provisions of § 19.574 apply.

(26 U.S.C. 5207)

**§ 19.717 Time for making entries in records.**

A proprietor of an alcohol fuel plant must record entries required by this subpart in the proprietor's records on a daily basis, as the transaction or operation occurs, but not later than the close of the next business day after the occurrence of the transaction or operation. However, if a proprietor prepares supplemental or auxiliary records when an operation or transaction occurs and those records contain all of the information required under this subpart, the proprietor may make entries in the required records not later than the close of business on the third business day following the day on

which the transaction or operation occurred.

(26 U.S.C. 5207)

**§ 19.718 Required records.**

A proprietor of an alcohol fuel plant must maintain records that accurately reflect the operations and transactions occurring at the plant. These records must include production, receipt, manufacture, and disposition records.

(a) *Production, receipt, and manufacture records.* The proprietor must maintain records of all production, receipts, and manufacture at the alcohol fuel plant. This includes records of:

(1) The quantity and proof of spirits produced;

(2) The kind and quantity of materials used to produce spirits, if the proprietor is a medium plant or large plant;

(3) The proof gallons of spirits on hand;

(4) The proof gallons of spirits received. The proprietor may use a copy of the consignor's invoice or other document received with the shipment if the proprietor records the date of receipt and quantity received;

(5) The quantities and types of materials added to each lot of spirits to render the spirits unfit for beverage use; and

(6) The quantity of fuel alcohol manufactured. Fuel alcohol may be recorded in wine gallons.

(b) *Disposition records.* The proprietor must maintain records of all dispositions of spirits and fuel alcohol removed from the alcohol fuel plant. Records for dispositions of fuel alcohol and spirits must be maintained separately. Required records include:

(1) The amount of fuel alcohol removed. The commercial record or other document required by § 19.729 will constitute the required record;

(2) The amount of spirits transferred. For all spirits transferred to another qualified distilled spirits plant or alcohol fuel plant the proprietor must maintain the commercial invoice or other documentation required by §§ 19.405 and 19.734;

(3) Record of other dispositions. If the proprietor has other dispositions of spirits or fuel alcohol such as losses, destruction, or redistillation, the proprietor must keep a record of those dispositions. The record must include the quantity of spirits (in proof gallons) or fuel alcohol (in wine gallons), the date of disposition, and the purpose for which used or the nature of any other disposition;

(4) Testing records. If the proprietor conducts testing and analysis of samples of spirits or fuel alcohol in accordance with § 19.749, the proprietor must keep

a record of the date of the testing and the amount of spirits (in proof gallons) or fuel alcohol (in wine gallons) tested.

(26 U.S.C. 5181, 5207)

**§ 19.719 Spirits made unfit for beverage use in the production process.**

If an alcohol fuel plant makes spirits unfit for beverage use before the spirits are removed from the production process, for example by the in-line addition of materials or by the addition of materials to receptacles where spirits are first deposited, the proprietor must determine the quantity and proof of the spirits produced for purposes of the production records by:

(a) Determining the proof of each lot of spirits by procuring a representative sample of each lot, prior to the addition of any materials for rendering the spirits unfit for beverage use, and then proofing the spirits; and

(b) Determining the quantity (proof gallons) of spirits produced by subtracting the quantity of materials added to render the spirits unfit for beverage use from the quantity of fuel alcohol (in gallons) produced and multiplying the resulting figure by the proof of the spirits divided by 100.

(26 U.S.C. 5181, 5207)

**Reports**

**§ 19.720 Reports.**

Each proprietor of an alcohol fuel plant must submit to the appropriate TTB officer an annual report of operations on form TTB F 5110.75, Alcohol Fuel Plant Report, for each calendar year. The proprietor must submit this report by January 30 following the end of the calendar year.

(26 U.S.C. 5207)

**Redistillation**

**§ 19.722 General rules for redistillation of spirits or fuel alcohol.**

The proprietor of an alcohol fuel plant may receive and redistill spirits. The proprietor may also receive fuel alcohol for redistillation and recovery of the spirits contained in the fuel alcohol. The following general rules apply to redistillation activities at an alcohol fuel plant:

(a) The proprietor must separately identify in the required records any spirits and fuel alcohol received for redistillation;

(b) The proprietor must keep all spirits and fuel alcohol received for redistillation physically separate from each other and from other spirits and fuel alcohol until they are redistilled;

(c) Spirits recovered by redistillation will be treated the same as spirits that have not been redistilled; and

(d) All provisions of this subpart and 26 U.S.C. chapter 51, including provisions regarding liability for tax applicable to spirits when originally produced, apply to spirits recovered by distillation.

(26 U.S.C. 5181)

**§ 19.723 Effect of redistillation on plant size and bond amount.**

The redistillation of spirits at an alcohol fuel plant may affect the alcohol fuel plant size category and the resulting bond penal sum amount. The following rules apply in this regard:

(a) Spirits originally produced by the alcohol fuel plant and subsequently recovered by redistillation are not includable in the determination of plant size and bond amount; and

(b) Spirits originally produced elsewhere and subsequently recovered by redistillation at the alcohol fuel plant are includable in the determination of plant size and bond amount.

(26 U.S.C. 5181)

**§ 19.724 Records of redistillation.**

(a) Except as otherwise provided in paragraph (b) of this section, a proprietor must record in a separate record the following information for spirits and fuel alcohol received at the alcohol fuel plant for redistillation:

- (1) Date of receipt;
- (2) Identification as spirits or fuel alcohol;
- (3) Quantity received;
- (4) From whom received;
- (5) Reason for redistillation;
- (6) Date redistilled; and
- (7) The quantity of spirits recovered by redistillation.

(b) A proprietor may use a document required by §§ 19.729 or 19.734 or any other commercial record covering spirits or fuel alcohol received in lieu of the record required by paragraph (a) of this section, provided that it contains all of the information required by paragraph (a) of this section, including any such information added to it by the proprietor.

(26 U.S.C. 5181, 5223)

**Rules for Use, Withdrawal, and Transfer of Spirits**

**§ 19.726 Prohibited uses, transfers, and withdrawals.**

No person may withdraw, use, sell or otherwise dispose of distilled spirits, including fuel alcohol, produced under this subpart for any purpose other than for fuel use. The law imposes criminal penalties on any person who withdraws, uses, sells, or otherwise disposes of distilled spirits, including fuel alcohol, produced under this subpart for other than fuel use.

(26 U.S.C. 5181, 5601)

**§ 19.727 Use on premises.**

A proprietor may use spirits as a fuel on the premises of the alcohol fuel plant where they were produced without having to make them unfit for beverage use. A proprietor using spirits in this way must keep the applicable records concerning such use as provided in § 19.718(b)(3).

(26 U.S.C. 5181)

**§ 19.728 Withdrawal of spirits.**

Before withdrawal of spirits from the premises of an alcohol fuel plant, the proprietor must render the spirits unfit for beverage use as provided in this subpart. Spirits rendered unfit for beverage use may be withdrawn free of tax from the alcohol fuel plant premises if they will be used exclusively for fuel.

(26 U.S.C. 5181, 5214)

**§ 19.729 Withdrawal of fuel alcohol.**

(a) For each shipment or other removal of fuel alcohol from the alcohol fuel plant premises, the consignor proprietor must prepare a commercial invoice, sales slip, or similar document that shows:

- (1) The date of the withdrawal;
- (2) The quantity of fuel alcohol removed;
- (3) A description of the shipment that includes the number and size of containers, tank trucks, etc.; and
- (4) The name and address of the consignee.

(b) The consignor proprietor must retain in its records a copy of the document described in paragraph (a) of this section.

(26 U.S.C. 5181)

**Transfer of Spirits Between Alcohol Fuel Plants**

**§ 19.733 Authorized transfers between alcohol fuel plants.**

A proprietor may remove spirits from the bonded premises of an alcohol fuel plant, including the premises of a small plant, for transfer in bond to another alcohol fuel plant. A proprietor of an alcohol fuel plant may also receive spirits from another alcohol fuel plant. The following conditions apply to such transfers:

(a) The transfer of spirits must be pursuant to an approved application on form TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond in accordance with § 19.403;

(b) Bulk conveyances in which spirits are transferred must be secured with locks, seals, or other devices in accordance with § 19.441;

(c) It is not necessary to render the spirits unfit for beverage use prior to the transfer;

(d) The transferred spirits may not be withdrawn, used, sold, or disposed of for other than fuel use; and

(e) Each proprietor must adhere to the requirements for transfers between alcohol fuel plants prescribed in §§ 19.734 through 19.736, as applicable.

(26 U.S.C. 5181, 5212)

**§ 19.734 Consignor for in-bond shipments.**

A proprietor that ships distilled spirits in bond to another alcohol fuel plant is the "consignor" of the shipment. When shipping spirits in bond, the consignor must:

(a) Ship the spirits pursuant to an approved application on form TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond;

(b) Prepare a duplicate commercial invoice or shipping document for each shipment of spirits that includes the following:

- (1) The quantity of the spirits transferred;
- (2) The proof of the spirits transferred;
- (3) A description of the shipment that includes the number and size of drums, barrels, tank trucks, etc.;
- (4) The consignor's name, address, and permit number and the name, address, and permit number of the proprietor of the alcohol fuel plant that will receive the spirits; and
- (5) The serial numbers of seals, locks, or other devices used to secure the shipment; and

(c) Forward the original invoice or shipping document with the shipment to the proprietor of the receiving alcohol fuel plant and retain a copy in the alcohol fuel plant's records.

(26 U.S.C. 5212)

**§ 19.735 Reconsignment while in transit.**

A consignor may reconsign an in-bond shipment of spirits while the shipment is in transit or upon arrival at the premises of the consignee for any bona fide reason such as when the spirits transferred in bond are found to be unsuitable for the intended purpose or the spirits were shipped in error. The consignor may reconsign the shipment to itself or to another consignee that is qualified to receive the spirits. In either case, an Application for Transfer of Spirits and/or Denatured Spirits in Bond on form TTB F 5100.16 must have been previously approved for the new consignee and must be on file at the alcohol fuel plant. The bond of the new consignee of the spirits will cover the spirits while they are in transit after



reconsignment. When reconsigning a shipment, the consignor must notify the original consignee that the transfer has been cancelled and must make a notation on the original invoice or shipping document that the shipment was reconsigned. The consignor must also prepare a new invoice or shipping document for the new consignee and must mark the new invoice or shipping document "reconsignment."

(26 U.S.C. 5181, 5212)

#### **§ 19.736 Consignee for in-bond shipments.**

(a) *General.* A proprietor that receives spirits in bond from another alcohol fuel plant is the "consignee" of the shipment. When receiving spirits in bond, the consignee must:

(1) Examine each conveyance and notify the appropriate TTB officer immediately if any of the locks, seals, or other devices that secure each conveyance do not arrive at the premises intact;

(2) Determine the quantity of spirits received and record the quantity and date of receipt on the invoice or shipping document sent with the shipment; and

(3) Retain the invoice or shipping document as part of the records required by § 19.718.

(b) *Portable containers.* A consignee who receives spirits in barrels, drums, or other portable containers that are not secured by seals or other devices must verify the contents of each container. The consignee must record the quantity received in each container on a list and must attach the list to the invoice or shipping document received with the shipment.

(c) *Bulk conveyances or pipelines.* A consignee who receives spirits in bulk conveyances or by pipeline must gauge the spirits received and record the quantity determined on the invoice or shipping document received with the shipment. The appropriate TTB officer may waive the requirement for gauging spirits received by pipeline if requested in writing by the consignee and if there is no jeopardy to the revenue.

(26 U.S.C. 5181, 5204, 5212)

#### **Transfer of Spirits to and From Distilled Spirits Plants**

##### **§ 19.739 Authorized transfers to or from distilled spirits plants.**

Except for spirits produced from petroleum, natural gas, or coal, a proprietor of an alcohol fuel plant may receive spirits in bond from a distilled spirits plant qualified under subpart D of this part. A proprietor of an alcohol fuel plant may also transfer spirits in bond from the alcohol fuel plant to a

distilled spirits plant qualified under subpart D of this part. The following conditions apply to such transfers:

(a) Bulk conveyances in which spirits are transferred must be secured with locks, seals, or other devices in accordance with § 19.441;

(b) It is not necessary to render the spirits unfit for beverage use prior to the transfer;

(c) The transferred spirits may not be withdrawn, used, sold, or disposed of for other than fuel use;

(d) An alcohol fuel plant proprietor transferring spirits filled into portable containers to the bonded premises of a distilled spirits plant must mark the containers as required by § 19.752(b);

(e) The procedures in §§ 19.403 through 19.406 and § 19.620 apply to the transfer of spirits from an alcohol fuel plant to a distilled spirits plant; and

(f) The procedures in §§ 19.403, 19.404, 19.405, and 19.407 apply to the transfer of spirits from a distilled spirits plant to an alcohol fuel plant.

(26 U.S.C. 5181, 5212)

#### **Receipt of Spirits From Customs Custody**

##### **§ 19.742 Authorized transfers from customs custody.**

A proprietor of an alcohol fuel plant may withdraw from customs custody spirits imported or brought into the United States in bulk containers and may transfer those spirits without payment of tax to the proprietor's alcohol fuel plant subject to the following conditions:

(a) The transfer of the spirits may only be to an alcohol fuel plant that is required to file, and has filed, a bond;

(b) The spirits must not have been produced from petroleum, natural gas, or coal;

(c) The alcohol fuel plant must further manufacture or process the spirits after receipt;

(d) The proprietor of the alcohol fuel plant may only redistill or denature the spirits if the imported spirits are 185° or more of proof and will be withdrawn for fuel use; and

(e) The proprietor of the alcohol fuel plant must follow the procedures for receiving spirits prescribed in § 19.736 and subpart L of part 27 of this chapter.

(26 U.S.C. 5232)

#### **Materials for Making Spirits Unfit for Beverage Use**

##### **§ 19.746 Authorized materials.**

(a) *General.* The appropriate TTB officer determines what materials make spirits unfit for beverage use but do not impair the quality of the spirits for fuel use. Spirits treated with materials

authorized under this section will be considered rendered unfit for beverage use and eligible for withdrawal as fuel alcohol.

(b) *Authorized materials.* Subject to the specifications in paragraph (c) of this section, proprietors are authorized to render spirits unfit for beverage use by adding to each 100 gallons of spirits any of following materials in the quantities specified:

(1) Two gallons or more of—

(i) Gasoline or automotive gasoline (for use in engines that require unleaded gasoline, the Environmental Protection Agency and manufacturers specifications may require that unleaded gasoline be used to render spirits unfit for beverage use);

(ii) Natural gasoline;

(iii) Kerosene;

(iv) Deodorized kerosene;

(v) Rubber hydrocarbon solvent;

(vi) Methyl isobutyl ketone;

(vii) Mixed isomers of nitropropane;

(viii) Heptane;

(ix) Ethyl tertiary butyl ether (ETBE);

(x) Raffinate;

(xi) Naphtha; or

(xii) Any combination of the materials listed in (b)(1)(i) through (xi) of this section; or

(2) Five gallons or more of Toluene; or

(3) One-eighth (1/8) of an ounce of denatonium benzoate N.F. and 2 gallons of isopropyl alcohol.

(c) *Specifications.* (1) Specifications for gasoline, unleaded gasoline, kerosene, deodorized kerosene, rubber hydrocarbon solvent, methyl isobutyl ketone, mixed isomers of nitropropane, heptane, toluene, and isopropyl alcohol are found in part 21, subpart E, of this chapter.

(2) Natural gasoline must meet the following specifications—

(i) Natural gasoline (drip gas) is a mixture of butane, pentane, and hexane hydrocarbons extracted from natural gas; and

(ii) Distillation range: No more than 10 percent of the sample may distill below 97 degrees Fahrenheit; at least 50 percent shall distill at or below 156 degrees Fahrenheit; and at least 90 percent shall distill at or below 209 degrees Fahrenheit.

(3) Raffinate must meet the following specifications—

(i) Octane (R+M/2): 66–70;

(ii) Distillation, in degrees Fahrenheit: 10 percent: 120–150 °F; 50 percent: 144–180 °F; 90 percent: 168–200 °F; end point: 216–285 °F;

(iii) API Gravity: 76–82; and

(iv) Reid Vapor Pressure: 5–11.

(4) Naphtha must meet the following specifications—

(i) API Gravity @ 60/60 degrees Fahrenheit: 64–70 °F;  
 (ii) Lb/Gal: 5.845–6.025;  
 (iii) Density: 0.7022–0.7238;  
 (iv) Reid Vapor Pressure: 8 P.S.I.A. Max.;

(v) Distillation in degrees Fahrenheit: I.B.P.: 85 °F Max.; 10 percent: 130 °F Max.; 50 percent: 250 °F Max.; 90 percent: 340 °F Max.; end point: 380 °F;

(vi) Copper Corrosion: 1; and  
 (vii) Sabolt Color: 28 Min.

(d) *Published list.* The appropriate TTB officer periodically publishes a list of materials that may be used to make spirits unfit for beverage use in addition to those listed in paragraph (b) of this section. The list can be found at <http://www.ttb.treas.gov>. The list will specify the material name and quantity required to render spirits unfit for beverage use.  
 (26 U.S.C. 5181)

**§ 19.747 Other materials.**

If a proprietor wishes to use a material to render spirits unfit for beverage use that is not authorized under § 19.746 or that is not on the published list of materials, the proprietor may submit an application for approval to the appropriate TTB officer. The application must include the name of the material and the quantity of material that the proprietor proposes to add to each 100 gallons of spirits. The appropriate TTB officer may require the proprietor to submit an 8-ounce sample of such material. The proprietor may not use any proposed material until the appropriate TTB officer approves its use. Any material that impairs the quality of the spirits for fuel use will not be approved. The proprietor must retain as part of the records available for inspection by appropriate TTB officers any application approved by the appropriate TTB officer under this section.  
 (26 U.S.C. 5181)

**Rules for Taking Samples**

**§ 19.749 Samples.**

The following rules apply to the testing and analysis of samples of spirits and fuel alcohol for purposes of this subpart:

(a) A proprietor may take samples of spirits and fuel alcohol for on-site testing and analysis at the proprietor's alcohol fuel plant;

(b) A proprietor may not remove samples of spirits from the premises of the alcohol fuel plant for testing and analysis;

(c) A proprietor may remove samples of fuel alcohol from the premises of the alcohol fuel plant for testing and analysis at a qualified laboratory;

(d) A proprietor of an alcohol fuel plant must account for all samples in the record required by § 19.718(b)(4); and

(e) A proprietor of an alcohol fuel plant must indicate on each container that the spirits or fuel alcohol inside is a sample.  
 (26 U.S.C. 5181)

**Marking Requirements**

**§ 19.752 Marks.**

(a) *Fuel alcohol.* A proprietor of an alcohol fuel plant must place a conspicuous and permanent warning mark or label on each container of 55 gallons or less of fuel alcohol that the proprietor will withdraw from the plant premises. The proprietor must place the mark or label on the head or side of the container and must use plain, legible letters. The proprietor may place other marks or labels on the container if the other marks or labels do not obscure the required warning. The required warning is as follows:

**WARNING  
 FUEL ALCOHOL  
 MAY BE HARMFUL OR  
 FATAL IF SWALLOWED**

(b) *Spirits.* If a proprietor intends to transfer barrels, drums, or similar portable containers of spirits to a distilled spirits plant qualified under subpart D of this part, the proprietor must mark or label each container. The proprietor must place the mark or label on the head or side of the container and must use plain, legible letters. The proprietor may place other marks or labels on the container if the other marks or labels do not obscure the required marks or labels. The required mark or label each container must contain the following information:

- (1) Quantity in wine gallons;
- (2) Proof of the spirits;
- (3) Name, address, and permit number of the alcohol fuel plant;
- (4) The words "Spirits—For Alcohol Fuel Use Only"; and
- (5) The serial number of the container. Serial numbers must be assigned as follows—

- (i) Consecutively commencing with "1";
- (ii) When the numbering system of any series reaches "1,000,000" the proprietor may begin the series again by adding an alphabetical prefix or suffix to the series; and
- (iii) When there is a change in proprietorship or a change in the individual, firm, corporate name, or trade name, the series in use at the time of the change may be continued.

(26 U.S.C. 5181, 5206)

**Subpart Y—Paperwork Reduction Act**

**§ 19.761 OMB control numbers assigned under the Paperwork Reduction Act.**

(a) *Purpose.* This subpart displays the control numbers assigned to information collection requirements in this part by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, Public Law 104–13.

(b) *Display.* The following display identifies each section in this part that contains an information collection requirement and the OMB control number that is assigned to that information collection requirement.

Section where contained	Current OMB control No.
19.11 .....	1513–0088
19.13 .....	1513–0048
19.26 .....	1513–0048
19.27 .....	1513–0048
19.28 .....	1513–0048
19.33 .....	1513–0048
19.35 .....	1513–0048
19.37 .....	1513–0048
19.54 .....	1513–0048
19.55 .....	1513–0048
19.56 .....	1513–0081
19.56 .....	1513–0048
19.59 .....	1513–0013
19.60 .....	1513–0013
19.60 .....	1513–0048
19.71 .....	1513–0048
19.72 .....	1513–0048
19.73 .....	1513–0048
19.74 .....	1513–0048
19.75 .....	1513–0048
19.76 .....	1513–0048
19.77 .....	1513–0046
19.77 .....	1513–0048
19.78 .....	1513–0014
19.78 .....	1513–0048
19.79 .....	1513–0048
19.91 .....	1513–0040
19.92 .....	1513–0040
19.93 .....	1513–0040
19.94 .....	1513–0040
19.95 .....	1513–0040
19.97 .....	1513–0040
19.112 .....	1513–0048
19.113 .....	1513–0048
19.113 .....	1513–0088
19.114 .....	1513–0048
19.115 .....	1513–0048
19.116 .....	1513–0013
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19.120 .....	1513–0048
19.120 .....	1513–0088
19.121 .....	1513–0048
19.122 .....	1513–0048
19.123 .....	1513–0048
19.126 .....	1513–0040

Section where contained	Current OMB control No.	Section where contained	Current OMB control No.	Section where contained	Current OMB control No.
19.127	1513-0088	19.249	1513-0045	19.389	1513-0056
19.128	1513-0040	19.253	1513-0088	19.392	1513-0048
19.129	1513-0040	19.256	1513-0045	19.393	1513-0049
	1513-0088	19.257	1513-0045	19.394	1513-0056
19.130	1513-0040	19.261	1513-0048	19.402	1513-0056
	1513-0088	19.262	1513-0030	19.403	1513-0038
19.131	1513-0040		1513-0045	19.404	1513-0038
	1513-0088		1513-0088	19.405	1513-0038
19.132	1513-0013	19.263	1513-0030		1513-0056
	1513-0040		1513-0045	19.406	1513-0038
	1513-0088		1513-0088		1513-0056
19.133	1513-0013	19.264	1513-0030	19.407	1513-0056
	1513-0040		1513-0045	19.411	1513-0039
19.134	1513-0013		1513-0088	19.414	1513-0056
	1513-0040	19.265	1513-0030	19.419	1513-0056
	1513-0088		1513-0088	19.420	1513-0048
19.135	1513-0040	19.266	1513-0030	19.425	1513-0056
19.141	1513-0013		1513-0045	19.427	1513-0056
	1513-0044		1513-0088	19.431	1513-0056
19.142	1513-0044	19.267	1513-0045	19.434	1513-0048
19.143	1513-0013		1513-0088		1513-0056
	1513-0044	19.268	1513-0088	19.435	1513-0056
19.154	1513-0044	19.269	1513-0030	19.436	1513-0045
19.155	1513-0013		1513-0045		1513-0083
19.156	1513-0014	19.281	1513-0048	19.441	1513-0048
19.168	1513-0013	19.283	1513-0056	19.452	1513-0030
19.170	1513-0048	19.284	1513-0056		1513-0056
19.171	1513-0048	19.286	1513-0056	19.454	1513-0056
19.172	1513-0048	19.287	1513-0056	19.457	1513-0056
19.187	1513-0080	19.288	1513-0056	19.459	1513-0048
19.189	1513-0080	19.289	1513-0056		1513-0056
19.191	1513-0080		1513-0056	19.461	1513-0045
19.192	1513-0048	19.292	1513-0044	19.462	1513-0030
19.198	1513-0048	19.293	1513-0047		1513-0039
19.201	1513-0088	19.294	1513-0047		1513-0048
	1513-0113	19.295	1513-0047		1513-0056
19.202	1513-0113	19.303	1513-0056	19.464	1513-0030
19.203	1513-0113	19.305	1513-0039		1513-0045
19.222	1513-0045		1513-0056	19.465	1513-0045
	1513-0088	19.306	1513-0056		1513-0056
19.225	1513-0045	19.307	1513-0056		1513-0083
19.226	1513-0045	19.308	1513-0047	19.478	1513-0080
19.226	1513-0056	19.309	1513-0047	19.487	1513-0048
19.227	1513-0045	19.312	1513-0056	19.513	1513-0020
19.230	1513-0045	19.322	1513-0039	19.571	1513-0039
	1513-0083		1513-0056		1513-0045
19.231	1513-0045	19.324	1513-0039		1513-0049
19.233	1513-0045		1513-0056		1513-0056
	1513-0083	19.327	1513-0039		1513-0088
	1513-0088	19.329	1513-0039	19.572	1513-0049
19.234	1513-0045	19.331	1513-0056	19.573	1513-0039
	1513-0083	19.333	1513-0056		1513-0049
	1513-0088	19.343	1513-0041		1513-0056
19.235	1513-0088	19.352	1513-0048		1513-0088
19.236	1513-0083	19.353	1513-0041	19.574	1513-0039
	1513-0088	19.354	1513-0088		1513-0045
19.237	1513-0045	19.357	1513-0041		1513-0049
	1513-0083	19.360	1513-0041		1513-0056
19.238	1513-0045		1513-0056		1513-0088
	1513-0083	19.362	1513-0041	19.575	1513-0039
19.239	1513-0045	19.363	1513-0041		1513-0045
	1513-0083	19.371	1513-0056		1513-0049
	1513-0088		1513-0088		1513-0056
19.240	1513-0045	19.372	1513-0048		1513-0088
	1513-0083		1513-0056	19.576	1513-0039
	1513-0088		1513-0088		1513-0045
19.242	1513-0045	19.381	1513-0049		1513-0049
	1513-0083	19.383	1513-0056		1513-0056
19.243	1513-0045	19.384	1513-0048		1513-0088
19.246	1513-0045	19.386	1513-0049	19.577	1513-0039
19.247	1513-0045	19.387	1513-0049		1513-0045
19.248	1513-0045	19.388	1513-0048		1513-0056

Section where contained	Current OMB control No.	Section where contained	Current OMB control No.
19.580	1513-0088 1513-0039 1513-0045 1513-0049 1513-0088	19.685 19.686	1513-0051 1513-0052 1513-0088 1513-0051 1513-0088
19.581	1513-0039 1513-0045 1513-0049 1513-0088	19.687 19.688	1513-0052 1513-0088 1513-0051 1513-0088
19.584	1513-0047	19.689	1513-0051 1513-0088
19.585	1513-0047	19.690	1513-0051
19.586	1513-0047	19.692	1513-0088
19.590	1513-0039	19.695	1513-0051 1513-0088
19.591	1513-0039	19.709	1513-0052
19.592	1513-0039	19.710	1513-0052
19.593	1513-0039	19.714	1513-0052
19.596	1513-0041	19.715	1513-0052
19.597	1513-0041	19.716	1513-0088 1513-0052
19.598	1513-0041	19.717	1513-0088
19.599	1513-0041	19.718	1513-0052
19.600	1513-0041	19.719	1513-0052
19.601	1513-0041	19.720	1513-0088
19.602	1513-0041	19.722	1513-0052
19.603	1513-0041	19.727	1513-0052
19.604	1513-0041	19.729	1513-0052
19.606	1513-0049	19.733	1513-0052
19.607	1513-0049	19.734	1513-0052
19.611	1513-0045 1513-0088	19.735	1513-0052
19.612	1513-0045 1513-0088	19.736	1513-0038
19.613	1513-0045	19.739	1513-0052
19.614	1513-0045	19.746	1513-0052
19.615	1513-0045	19.747	1513-0052
19.616	1513-0056	19.749	1513-0052
19.617	1513-0056	19.752	1513-0052
19.618	1513-0056		
19.619	1513-0056		
19.620	1513-0038 1513-0056		
19.621	1513-0056		
19.623	1513-0056		
19.624	1513-0041		
19.626	1513-0056		
19.627	1513-0044		
19.632	1513-0039 1513-0041 1513-0047 1513-0049 1513-0088 1513-0081 1513-0081 1513-0081 1513-0081 1513-0088 1513-0052 1513-0052 1513-0052 1513-0088 1513-0088 1513-0113 1513-0051 1513-0051 1513-0014 1513-0051 1513-0051 1513-0051 1513-0051 1513-0051 1513-0051 1513-0052		
19.641	1513-0081		
19.643	1513-0081		
19.644	1513-0081		
19.645	1513-0081		
19.650	1513-0081 1513-0088 1513-0052		
19.665	1513-0052		
19.666	1513-0052		
19.667	1513-0052		
19.669	1513-0088		
19.670	1513-0088 1513-0113		
19.673	1513-0051		
19.675	1513-0051		
19.676	1513-0014 1513-0051		
19.677	1513-0051		
19.680	1513-0051		
19.683	1513-0051 1513-0052		
19.684	1513-0051		

**PART 24—WINE**

■ 7. The authority citation for 27 CFR part 24 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122-5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 24.226 [Amended]**

■ 8. In § 24.226:

■ a. The first sentence is amended by removing the reference to “27 CFR 19.510” and adding, in its place, a reference to “§ 19.407 of this chapter”; and

■ b. The third sentence is amended by removing the reference to “27 CFR 19.508” and adding, in its place, a reference to “§ 19.405 of this chapter”.

**§ 24.235 [Amended]**

■ 9. In § 24.235, paragraph (a) is amended by removing the reference to “27 CFR 19.522(c)” and adding, in its place, a reference to “§ 19.233 of this chapter”.

**PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

■ 10. The authority citation for 27 CFR part 26 continues to read as follows:

**Authority:** 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111-5114, 5121, 5122-5124, 5131-5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 26.199f [Amended]**

■ 11. In § 26.199f, paragraph (a) is amended by removing the reference to “27 CFR 19.562” and adding, in its place, a reference to “§ 19.462 of this chapter”.

**§ 24.226 [Amended]**

■ 12. In § 26.293, paragraph (a)(3) is amended by removing the reference to “subpart R” and adding, in its place, a reference to “subpart S”.

**PART 28—EXPORTATION OF ALCOHOL**

■ 13. The authority citation for 27 CFR part 28 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

**§ 28.118 [Amended]**

■ 14. Section 28.118 is amended by removing the reference to “subpart U” and adding, in its place, a reference to “subpart Q”.

**PART 30—GAUGING MANUAL**

■ 15. The authority citation for 27 CFR part 30 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**§ 30.31 [Amended]**

■ 16. In § 30.31, paragraph (d) is amended by removing the reference to “§ 19.383” and adding, in its place, a reference to “§ 19.353 of this chapter”.

**§ 30.52 [Amended]**

■ 17. Section 30.52 is amended by removing the reference to “§ 19.722” and adding, in its place, a reference to “§ 19.582”.

**PART 31—ALCOHOL BEVERAGE DEALERS**

■ 18. The authority citation for 27 CFR part 31 continues to read as follows:

**Authority:** 26 U.S.C. 5001, 5002, 5121, 5122–5124, 5131, 5132, 5206, 5207, 5273, 5301, 5352, 5555, 5603, 5613, 5681, 5687, 6061, 6065, 6071, 6091, 6103, 6109, 6723, 6724, 7805.

**§ 31.45 [Amended]**

■ 19. In § 31.45, paragraph (b) is amended by removing the reference to “§ 19.58” and adding, in its place, a reference to “§ 19.5”.

**§ 31.65 [Amended]**

■ 20. In § 31.65, paragraph (a) is amended by removing the reference to “§ 19.58” and adding, in its place, a reference to “§ 19.5”.

Signed: May 27, 2010.

**John J. Manfreda,**  
*Administrator.*

Approved: September 23, 2010.

**Timothy E. Skud,**  
*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

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