

1513-0009

26 U.S.C.

Sec. 5351. - Bonded wine cellar

Any person establishing premises for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine (other than wine produced exempt from tax under section 5042), including the use of wine spirits in wine production, shall, before commencing operations, make application to the Secretary and file bond and receive permission to operate. Such premises shall be known as "bonded wine cellars"; except that any such premises engaging in production operations may, in the discretion of the Secretary, be designated as a "bonded winery"

Sec. 5352. - Taxpaid wine bottling house

Any person bottling, packaging, or repackaging taxpaid wines shall, before commencing such operations, make application to the Secretary and receive permission to operate. Such premises shall be known as "tax-paid wine bottling houses.'

Sec. 5353. - Bonded wine warehouse

Any responsible warehouse company or other responsible person may, upon filing application with the Secretary and consent of the proprietor and the surety on the bond of any bonded wine cellar, under regulations prescribed by the Secretary, establish on such premises facilities for the storage of wines and allied products for credit purposes, to be known as a "bonded wine warehouse". The proprietor of the bonded wine cellar shall remain responsible in all respects for operations in the warehouse and the tax on the wine or wine spirit stored therein

Sec. 5354. - Bond

The bond for a bonded wine cellar shall be in such form, on such conditions, and with such adequate surety, as regulations issued by the Secretary shall prescribe, and shall be in a penal sum not less than the tax on any wine or distilled spirits possessed or in transit at any one time (taking into account the appropriate amount of credit with respect to such wine under section 5041(c)), but not less than \$1,000 nor more than \$50,000; except that where the tax on such wine and on such distilled spirits exceeds \$250,000, the penal sum of the bond shall be not more than \$100,000. Where additional liability arises as a result of deferral of payment of tax payable on any return, the Secretary may require the proprietor to file a supplemental bond in such amount as may be necessary to protect the revenue. The liability of any person on any such bond shall apply whether the transaction or operation on which the liability of the proprietor is based occurred on or off the proprietor's premises

Sec. 5355. - General provisions relating to bonds

The provisions of section 5551 (relating to bonds) shall be applicable to the bonds required under section 5354

Sec. 5356. - Application

The application required by this part shall disclose, as regulations issued by the Secretary shall provide, such information as may be necessary to enable the Secretary to determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations

Sec. 5357. - Premises

Bonded wine cellar premises, including noncontiguous portions thereof, shall be so located, constructed, and equipped, as to afford adequate protection to the revenue, as regulations prescribed by the Secretary may provide

Sec. 5361. - Bonded wine cellar operations

In addition to the operations described in section 5351, the proprietor of a bonded wine cellar may, subject to regulations prescribed by the Secretary, on such premises receive taxpaid wine for return to bond, reconditioning, or destruction; prepare for market and store commercial fruit products and by-products not taxable as wines; produce or receive distilling material or vinegar stock; produce (with or without added wine spirits, and without added sugar) or receive on wine premises, subject to tax as wine but not for sale or consumption as beverage wine,

(1)

heavy bodied blending wines and Spanish-type blending sherries, and

(2)

other wine products made from natural wine for nonbeverage purposes; and such other operations as may be conducted in a manner that will not jeopardize the revenue or conflict with wine operations

Sec. 5362. - Removals of wine from bonded wine cellars

(a) Withdrawals on determination of tax

Wine may be withdrawn from bonded wine cellars on payment or determination of the tax thereon, under such regulations as the Secretary shall prescribe.

(b) Transfers of wine between bonded premises

(1) In general

Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

(2) Wine transferred to a distilled spirits plant may not be removed for consumption or sale as wine

Any wine transferred to the bonded premises of a distilled spirits plant -

(A)

may be used in the manufacture of a distilled spirits product, and

(B)

may not be removed from such bonded premises for consumption or sale as wine.

(3) Continued liability for tax

The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

(4) Transfer in bond not treated as removal for consumption or sale

For purposes of this chapter, the removal of wine for transfer in bond between bonded premises shall not be treated as a removal for consumption or sale.

(5) Bonded premises

For purposes of this subsection, the term "bonded premises" means a bonded wine cellar or the bonded premises of a distilled spirits plant.

(c) Withdrawals of wine free of tax or without payment of tax

Wine on which the tax has not been paid or determined may, under such regulations and bonds as the Secretary may deem necessary to protect the revenue, be withdrawn from bonded wine cellars -

(1) without payment of tax for export by the proprietor or by any authorized exporter;

- (2) without payment of tax for transfer to any foreign-trade zone;
- (3) without payment of tax for use of certain vessels and aircraft as authorized by law;
- (4) without payment of tax for transfer to any customs bonded warehouse;
- (5) without payment of tax for use in the production of vinegar;
- (6) without payment of tax for use in distillation in any distilled spirits plant authorized to produce distilled spirits;
- (7) free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research;
- (8) free of tax for use by or for the account of the proprietor or his agents for analysis or testing, organoleptic or otherwise; and
- (9) free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

(d) Withdrawal free of tax of wine and wine products unfit for beverage use

Under such regulations as the Secretary may deem necessary to protect the revenue, wine, or wine products made from wine, when rendered unfit for beverage use, on which the tax has not been paid or determined, may be withdrawn from bonded wine cellars free of tax. The wine or wine products to be so withdrawn may be treated with methods or materials which render such wine or wine products suitable for their intended use. No wine or wine products so withdrawn shall contain more than 21 percent of alcohol by volume, or be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

(e) Withdrawal from customs bonded warehouses for use of foreign embassies, legations, etc.

(1) In general

Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred

to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

(2) Withdrawal for domestic use

Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

(3) Sale or unauthorized use prohibited

Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation

Sec. 5363. - Taxpaid wine bottling house operations

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bottling house may, subject to regulations issued by the Secretary, on such premises mix wine of the same kind and taxable grade to facilitate handling; preserve, filter, or clarify wine; and conduct operations not involving wine where such operations will not jeopardize the revenue or conflict with wine operations

Sec. 5364. - Wine imported in bulk

Natural wine (as defined in section 5381) imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax

Sec. 5365. - Segregation of operations

The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines

Sec. 5366. - Supervision

The Secretary may by regulations require that operations at a bonded wine cellar or taxpaid wine bottling house be supervised by an internal revenue officer where necessary for the protection of the revenue or for the proper enforcement of this subchapter

Sec. 5367. - Records

The proprietor of a bonded wine cellar or a tax-paid wine bottling house shall keep such records and file such returns, in such form and containing such information, as the Secretary may by regulations provide

Sec. 5368. - Gauging and marking

(a) Gauging and marking

All wine or wine spirits shall be locked, sealed, and gauged, and shall be marked, branded, labeled, or otherwise identified, in such manner as the Secretary may by regulations prescribe.

(b) Marking

Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels evidencing compliance with this chapter, as the Secretary may by regulations prescribe

Sec. 5369. - Inventories

Each proprietor of premises subject to the provisions of this subchapter shall take and report such inventories as the Secretary may by regulations prescribe

Sec. 5370. - Losses

(a) General

No tax shall be collected in respect of any wines lost or destroyed while in bond, except that tax shall be collected -

(1) Theft

In the case of loss by theft, unless the Secretary shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor or other person responsible for the tax, or the owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(2) Voluntary destruction

In the case of voluntary destruction, unless the wine was destroyed under Government supervision, or on such adequate notice to, and approval by, the Secretary as regulations shall provide.

(b) Proof of loss

In any case in which the wine is lost or destroyed, whether by theft or otherwise, the Secretary may require by regulations the proprietor of the bonded wine cellar or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the Secretary, that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them

Sec. 5371. - Insurance coverage, etc.

Any remission, abatement, refund, or credit of, or other relief from, taxes on wines or wine spirits authorized by law shall be allowed only to the extent that the claimant is not indemnified or recompensed for the tax

Sec. 5372. - Sampling

Under regulations prescribed by the Secretary, wine may be utilized in any bonded wine cellar for testing, tasting, or sampling, free of tax

Sec. 5373. - Wine spirits

(a) In general

The wine spirits authorized to be used in wine production shall be brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from -

- (1)** fresh or dried fruit, or their residues,
- (2)** the wine or wine residues, therefrom, or
- (3)** special natural wine under such conditions as the Secretary may by regulations prescribe;

except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from distillation proof, nor be distilled, unless regulations otherwise provide, at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this subsection).

(b) Withdrawal of wine spirits

- (1)** The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of any distilled spirits plant, or from any bonded wine cellar as provided in paragraph (2), for use in the production of natural wine, for addition to concentrated or unconcentrated juice for use in wine production, or for such other uses as may be authorized in this subchapter.
- (2)** Wine spirits so withdrawn, and not used in wine production or as otherwise authorized in this subchapter, may, as provided by regulations prescribed by the Secretary, be transferred to the bonded premises of any distilled spirits plant or bonded wine cellar, or may be taxpaid and removed as provided by law.
- (3)** On such use, transfer, or taxpayment, the Secretary shall credit the proprietor with the amount of wine spirits so used or transferred or taxpaid and, in addition, with such portion of wine spirits so withdrawn as may have been lost either in transit or on the bonded wine cellar premises, to the extent allowable under section 5008(a). Where the proprietor has used wine spirits in actual wine production but in violation of the requirements of this subchapter, the Secretary shall also extend such credit to the wine spirits so used if the proprietor satisfactorily shows that such wine spirits were not knowingly used in violation of law.

(4) Suitable samples of brandy or wine spirits may, under regulations prescribed by the Secretary, be withdrawn free of tax from the bonded premises of any distilled spirits plant, bonded wine cellar, or authorized experimental premises, for analysis or testing.

(c) Distillates containing aldehydes

When the Secretary deems such removal and use will not jeopardize the revenue nor unduly increase administrative supervision, distillates containing aldehydes may, under such regulations as the Secretary may prescribe, be removed without payment of tax from the bonded premises of a distilled spirits plant to an adjacent bonded wine cellar and used therein in fermentation of wine to be used as distilling material at the distilled spirits plant from which such unfinished distilled spirits were removed

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Sec. 24.100 General.

Each person desiring to conduct operations in wine production, as specified in Sec. 24.101(b), (other than the production of wine free of tax as provided in Sec. Sec. 24.75 through 24.77) shall, prior to commencing operations, establish wine premises, make application as provided in Sec. 24.105, file bond, and receive permission to operate wine premises as provided in this part. After approval, the wine premises will be designated a bonded winery, bonded wine cellar or taxpaid wine bottling house. As provided in Sec. 24.107, the designated bonded winery will be used if production operations are to be conducted. In addition, wine premises may be used, in accordance with the provisions of this part, for the conduct of certain other operations. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended (26 U.S.C. 5351, 5352))

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Sec. 24.101 Bonded wine premises.

(a) General. A person desiring to conduct operations involving untaxpaid wine, including the use of spirits in wine production, shall file an application and bond as provided in Sec. 24.105. Further, a warehouse company or other person may, upon obtaining the consent of the proprietor and the surety on the bond and upon filing an application, as provided in Sec. 24.108, and receiving approval, establish at the wine premises a bonded wine warehouse for the storage of wine and allied products for credit purposes.

(b) Authorized operations. Except as provided in this part, no operation may be conducted on bonded wine premises other than those authorized. The following operations are authorized:

(1) The receipt, production, blending, cellar treatment, storage, and bottling or packing of untaxpaid wine;

(2) The use of wine spirits in beverage wine production and the use of spirits in nonbeverage wine production;

(3) The receipt, preparation, use, or removal of fruit, concentrated or unconcentrated fruit juice, or other materials to be used in the production or cellar treatment of wine; and

(4) The preparation, storage, or removal of commercial fruit products and by-products (including volatile fruit-flavor concentrate) not taxable as wine. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended (26 U.S.C. 5351, 5353, 5361))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13684, Mar. 22, 1999]

Sec. 24.102 Premises established for taxpaid wine operations.

A person desiring to bottle or pack taxpaid United States or foreign wine shall file an application as provided in Sec. 24.105 to establish a taxpaid wine bottling house premises. A person desiring to conduct taxpaid United States or foreign wine operations, other than bottling or packing taxpaid wine, at bonded wine premises shall include in their application, as provided in Sec. 24.109, the establishment of taxpaid wine premises.

(a) Taxpaid wine premises. Premises on which taxpaid United States or foreign wine may be received and stored, or blended with wine of the same kind and tax class, or reconditioned, and removed.

(b) Taxpaid wine bottling house premises. Premises on which taxpaid United States or foreign wine may be received, stored, mixed with wine of the same kind, tax class and country of origin to facilitate handling, reconditioned, bottled or packed, and removed. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1381, as amended (26 U.S.C. 5352, 5363))

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Sec. 24.103 Other operations.

Upon the specific approval of the appropriate TTB officer, other operations not provided for in this part may be conducted on wine premises. Authority to conduct other operations may be obtained by submitting an application to the appropriate TTB officer. The application must specifically describe the operation to be conducted and the wine premises and equipment to be used. An appropriate TTB officer may make any inquiry necessary to determine whether the conduct of other operations on wine premises would jeopardize the revenue, conflict with wine operations, or be contrary to law. Other operations authorized under this section will be conducted in accordance with the conditions, limitations, procedures, and terms stated in the approved application. Authority to conduct other operations may be withdrawn whenever the appropriate TTB officer determines the conduct of the other operations on wine premises jeopardizes the revenue, conflicts with wine operations, or is contrary to law.

[T.D. ATF-409, 64 FR 13685, Mar. 22, 1999]

Sec. 24.105 General.

A person desiring to establish a bonded winery, bonded wine cellar or taxpaid wine bottling house shall file an application on TTB F 5120.25, Application to Establish and Operate Wine Premises. Approval of TTB F 5120.25 will constitute authorization for the proprietor to operate. The premises may not be used for the conduct of operations under this part unless the proprietor has a valid approved application for the operations. The application will be executed under the penalties of perjury and all written statements, affidavits, and any document incorporated by reference will be considered a part of the application. In any instance where a bond is required to be given or a permit obtained to engage in an operation, the currently approved application will not be valid with respect to that operation if the bond or permit is no longer in effect. In this case, the proprietor

shall again file an application and obtain approval before engaging in operations at the wine premises. A new application is not required when a strengthening bond is filed pursuant to Sec. 24.153 or a new bond or superseding bond is filed pursuant to Sec. 24.154. The appropriate TTB officer may require the filing of a new or an amended application in any instance where the currently approved application is inadequate or incorrect in any respect. (August 16, 1954, Ch. 736, 68A Stat. 749, as amended (26 U.S.C. 6065); sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.106 Basic permit requirements.

Any person intending to engage in the business of producing or blending wine or purchasing wine for resale at wholesale is required under the Federal Alcohol Administration Act, as amended (49 Stat. 978; 27 U.S.C. 203) to obtain a basic permit. A State, a political subdivision of a State, or officers or employees of a State or political subdivision acting in their official capacity are exempted from this requirement. The issuance of a basic permit under the Act is governed by regulations in 27 CFR part 1. Where a basic permit is required to engage in an operation, an application for a basic permit will be filed at the time of filing an original or amended application on TTB F 5120.25. Operations requiring a basic permit may not be conducted until the basic permit application is approved. No Wine Producer's and Blender's Basic Permit or Wine Blender's Basic Permit is required for a bonded wine cellar established only for the purpose of storing untaxpaid wine even though an approved application, TTB F 5120.25, and bond are required. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13685, Mar. 22, 1999]

Sec. 24.107 Designation as a bonded winery.

Bonded wine premises which will be used for the production of wine or for production processes involving the use of wine will be designated a bonded winery unless the proprietor applies for a bonded wine cellar designation. If the proprietor of a bonded wine premises designated as a bonded winery does not engage in wine production operations, the appropriate TTB officer may notify the proprietor that the designation of the premises is changed from a bonded winery to a bonded wine cellar. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.108 Bonded wine warehouse application.

A warehouse company or other person desiring to establish a bonded wine warehouse on bonded wine premises for storing wine or allied products for credit purposes shall file an application, in letter form, with the appropriate TTB officer. The name and address of the applicant and of the bonded wine premises, and the approximate area and storage capacity (in gallons) of the bonded wine warehouse, will be stated in the application. The application will be accompanied by a signed statement from the proprietor of the bonded wine premises requesting the establishment of the warehouse, and the consent of the surety of the bond for the bonded wine premises. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.109 Data for application.

The TTB F 5120.25 is prepared in accordance with the instructions on the form and will include the following, as applicable:

- (a) Serial number;
- (b) Name and principal business address of the applicant and the address of the wine premises if different from the business address;
- (c) Statement of the type of business organization and of each person having an interest in the business, supported by the items of information listed in Sec. 24.110;
- (d) Indicate whether the application is for the purpose of establishing a bonded winery, bonded wine cellar, or taxpaid wine bottling house. Also, indicate whether a taxpaid wine premises is to be established if the application is for a bonded winery or bonded wine cellar;
- (e) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the applicant's name;
- (f) Description of the premises (see Sec. 24.111);
- (g) Trade names (see Sec. 24.112);
- (h) Description of spirits operations;
- (i) With respect to wine premises to which the application relates, a list of the applicant's basic permits and bonds (including those filed with the application) showing the name of the surety for each bond;
- (j) Description of volatile fruit-flavor concentrate operations (see Sec. 24.113); and
- (k) If other operations not specifically authorized by this part are to be conducted on wine premises, a description of the operations, a list of the premises, and a statement as to the relationship, if any, of the operation to wine operations on wine premises. If any of the information required by paragraph (c) of this section is on file with the appropriate TTB officer in connection with any other premises operated by the applicant, that information, if accurate and complete,

may be incorporated by reference and made a part of the application. In this case, the name, address, and if any, registry number of the premises where the information is filed will be stated in the application. The applicant shall, when required by the appropriate TTB officer, furnish as part of the application, additional information as may be necessary to determine whether the application should be approved. If any of the submitted information changes during the pending application, the applicant shall immediately notify the appropriate TTB officer of the revised information. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5361, 5511))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13685, Mar. 22, 1999]

Sec. 24.110 Organizational documents.

The supporting information required by paragraph (c) of Sec. 24.109, includes, as applicable, copies of:

(a) Corporate documents. (1) Corporate charter or a certificate of corporate existence or incorporation.

(2) List of the directors and officers, showing their names and addresses.

(3) Certified extracts or digests of minutes of meetings of the board of directors, authorizing certain individuals to sign for the corporation.

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

(b) Articles of partnership. True copies of the articles of partnership, if any, and of the certificate of partnership or association.

(c) Statement of interest. (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another party. If a corporation is wholly-owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need to be furnished only upon the request of the appropriate TTB officer.

(2) In the case of an individual owner or partnership, the name and address of each person interested in the wine premises, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) Availability of additional corporate documents. The originals of documents required to be submitted under this section and additional documents that may be required by the appropriate TTB officer (such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations) must be made available to any appropriate TTB officer upon request. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as

amended (26 U.S.C. 5356))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999]

Sec. 24.111 Description of premises.

The application will include a description of each tract of land comprising wine premises. The description will be by directions and distances, in feet and inches (or hundredths of feet), with sufficient particularity to enable ready determination of the bounds of the wine premises. When required by the appropriate TTB officer, a diagram of the wine premises, drawn to scale, will be furnished. The description will clearly indicate any area of the wine premises to be used as bonded wine premises, used as taxpaid wine premises, or alternated for use as bonded wine premises and taxpaid wine premises. The means employed to afford security and protect the revenue will be described. If required by the appropriate TTB officer to segregate operations within the premises, the manner by which the operations are segregated will be described. Each building on wine premises will be described as to size, construction, and use. Buildings on wine premises which will not be used for wine operations will be described only as to size and use. If the wine premises consist of a part of a building, the rooms or floors will be separately described. The activities conducted in the adjoining portions of the building and the means of ingress and egress from the wine premises will be described. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5365))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.112 Name of proprietor and trade names.

The applicant shall list on the application, TTB F 5120.25, the proprietor's name or the operating trade name, if different than the proprietor's name, and any bottling or packing trade names. However, if a bottling or packing trade name is listed on a basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat 978; 27 U.S.C. 204), that trade name is not required to be listed again on the application. If State or local law requires the registration of a trade name, the applicant shall certify that each trade name listed on the application is so registered. A trade name may not be used prior to approval of the application or issuance of a basic permit covering the use of the name. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

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Sec. 24.113 Description of volatile fruit-flavor concentrate operations.

Each applicant intending to produce volatile fruit-flavor concentrate shall include on the TTB F 5120.25 application a step-by-step description of the production procedure to be employed. The description will commence with the obtaining of juice from the fruit and continue through each step of the process to removal of volatile fruit-flavor concentrate from the system. If volatile fruit-flavor concentrate containing more than 24 percent alcohol (high-proof concentrates (essences)) is to be produced, the proprietor shall indicate any step in the production procedure at which any spirits may be fit for beverage purposes. The maximum quantity in gallons of fruit most used and volatile fruit-flavor concentrate produced in 24 hours, the maximum and minimum fold, and the maximum percent of alcohol in the volatile fruit-flavor concentrate will be stated for each kind of fruit used. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1392, as amended (26 U.S.C. 5356, 5361, 5511))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.114 Registry of stills.

Any still intended for use in the production of volatile fruit-flavor concentrate will be set up on bonded wine premises. Each still is subject to the provisions of subpart C of part 29 of this chapter and will be registered. The listing of a still in the application, and the approval of the application, will, as provided in 27 CFR 29.55, constitute registration. (Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended, 1379, as amended, 1392, as amended (26 U.S.C. 5179, 5356, 5511))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13685, Mar. 22, 1999; T.D. ATF-462, 66 FR 42737, Aug. 15, 2001]

Sec. 24.115 Registry number.

Upon approval of the application, the appropriate TTB officer will assign a registry number to the bonded winery, bonded wine cellar, or taxpaid wine bottling house. The registry number will be used in all correspondence and on all documents filed subsequently in connection with the operation of the premises and will be shown where required on labels and markings of containers or cases filled at the wine premises.

(Approved by the Office of Management and Budget under control numbers 1513-0009 and 1512-0503)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.116 Powers of attorney.

The proprietor shall file with the appropriate TTB officer a power of attorney for each person authorized to sign or to act on behalf of the proprietor as an attorney-in-fact. A power of attorney is not required for any person whose authority has been furnished in the application. If not limited in duration, the power of attorney will continue in effect until written notice of revocation is received by the appropriate TTB officer or operations are terminated.

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999]

Sec. 24.117 Maintenance of application file.

The proprietor shall maintain an application file with the information required by Sec. 24.109 in complete and current condition, readily available at the wine premises for inspection by appropriate TTB officers. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356, 5367))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13684, Mar. 22, 1999]

Sec. 24.120 Amended application.

Where there is a change in any of the information included in the current approved application, the proprietor shall, within 30 days of the change (except as otherwise provided in this part), submit an amended application to the appropriate TTB officer and set forth the information necessary to make the application file accurate and current. Where the change affects only pages or parts of pages of the current application, as many complete pages as will enable the replacement of the pages affected and maintenance of the file as provided in Sec. 24.117 will be submitted. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.122 Change in name of proprietor or trade name.

Where there is to be a change in the name of the proprietor or operating trade name, the proprietor shall file an amended application and, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for

amendment of the basic permit. Where there is a change in or addition of a trade name, the proprietor shall file an amended application or, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for amendment of the basic permit. Operations under a new name may not be conducted before approval of the amended application or issuance of an amended permit, as the case may be. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.123 Change in stockholders.

If there is a change in the list of stockholders furnished under the provisions of Sec. 24.110(c)(1), the proprietor may, in lieu of submission within 30 days of the change under the provisions of Sec. 24.120, submit a new list of stockholders annually on May 1, or any other approved date, to the appropriate TTB officer which has on file the list of stockholders, provided the sale or transfer of capital stock does not result in a change in the control or management of the business. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.124 Change in corporate officers.

Where there is any change in the list of corporate officers furnished under the provisions of Sec. 24.110(a)(2), the proprietor shall submit, within 30 days of the change, an amended application supported by a new list of corporate officers and a statement of the changes reflected in the new list. Where the proprietor has shown that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the application, the appropriate TTB officer may waive the requirement for submitting an amended application to cover a change in those corporate officers. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.125 Change in proprietorship.

(a) General. If there is a change in the proprietorship of wine premises qualified to operate under this part, the outgoing proprietor shall comply with the requirements of Sec. 24.140, and the successor shall, before commencing operations, apply for and obtain any required permits, file any required bonds, and file an application for and

receive permission to operate in the same manner as a person qualifying a new wine premises; however, the successor may, in the manner provided in Sec. 24.127, adopt the approved formulas of the outgoing proprietor. Wine, spirits, and winemaking materials may be transferred from an outgoing proprietor to a successor in the manner provided in Sec. 24.140.

(b) Fiduciary. A successor to the proprietorship of wine premises who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall, except as otherwise provided in this section, comply with the provisions of paragraph (a) of this section. However, in lieu of filing a new bond, if a bond is required, the fiduciary may furnish a consent of surety extending the terms of any bonds of the predecessor, and any pertinent information contained in the predecessor's application may be incorporated by reference. In addition, the fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing the appointment as such fiduciary. The effective date of the qualifying documents filed by a fiduciary will be the effective date of the court order, or the date specified for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date of assuming control will coincide with the effective date of the qualifying documents filed by the fiduciary.

(c) Exception. A fiduciary intending to liquidate the business conducted on wine premises, i.e., disposition of any wine and spirits on hand, including use of any cellar treatment necessary to put the wine in merchantable condition, who does not intend to produce wine, or use spirits, or receive wine in bond may be exempted from qualifying as the proprietor of the wine premises upon filing with the appropriate TTB officer a statement to that effect, a copy of a foreclosure action, or a copy of the court order directing the liquidation of the business, and, if the wine premises is covered by a bond, a consent of surety wherein the surety and the fiduciary agree to remain liable on the bond. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.126 Change in proprietorship involving a bonded wine warehouse.

Where a bonded wine warehouse has been established on wine premises and it is desired to continue the operation of the bonded wine warehouse subsequent to a change in the proprietorship of the bonded winery or bonded wine cellar, the proprietor of the bonded wine warehouse shall file a letter application, accompanied by an affirming statement from the new proprietor of the bonded winery or bonded wine cellar, requesting the continuation of the bonded wine warehouse and also file evidence of sufficient bond coverage. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.127 Adoption of formulas.

The adoption of approved formulas by a successor proprietor will be in the form of an application, filed with the appropriate TTB officer. The application will list the formulas for adoption by formula number, name of product, and date of approval. The application will clearly show that the outgoing proprietor has authorized the successor proprietor's use of the approved formulas. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.128 Continuing partnerships.

If, under the laws of the particular State, the partnership is not terminated upon the death or insolvency of a partner but continues until the dissolution of the partnership is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the wine premises under the prior qualification of the partnership, provided a consent of surety is filed wherein the surety and the surviving partner agree to remain liable on any bond covering the bonded wine premises. A surviving partner who acquires the business on completion of the dissolution of the partnership shall qualify from the date of acquisition, as provided in Sec. 24.125(a). The rule set forth in this section will also apply where there is more than one surviving partner. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.129 Change in location.

Where there is a change in the location of wine premises, the proprietor shall file an amended application and an application for amendment of the basic permit, if any, and if a bond has been filed, either a new bond or a consent of surety. Operation of wine premises may not be commenced at the new location prior to approval of the amended application and issuance of any amended permit. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.130 Change in volatile fruit-flavor concentrate operations.

If the proprietor desires to make any change in the process employed to produce volatile fruit-flavor concentrate and the change affects the accuracy of the description of process included in the application, the proprietor shall file an amended application to

include the amended or new process. The new or changed process may not be used prior to approval of the amended application. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.131 Change in building construction and use of premises.

Where a change is to be made to buildings located on wine premises, or in the use of any portion of the wine premises, which affects the accuracy of the application, the proprietor shall, before making such change in construction or use, submit a notice to the appropriate TTB officer. The notice will describe the proposed change in detail. The proprietor shall include the change covered by the notice in the next amended TTB F 5120.25 required to be filed, unless the appropriate TTB officer requires immediate amendment. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-409, 64 FR 13685, Mar. 22, 1999]

Sec. 24.135 Wine premises alternation.

(a) General. The proprietor of a bonded winery or bonded wine cellar may alternate all or a portion of wine premises for use as a taxpaid wine bottling house or use as taxpaid wine premises. The proprietor may also alternate the use of adjacent or contiguous premises qualified under 26 U.S.C. chapter 51 (distilled spirits plant, brewery, etc.) for use as wine premises or vice versa. If a proprietor of a bonded wine cellar or winery wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of Sec. Sec. 18.40 through 18.43 of this title.

(b) Qualifying documents. Where the proprietor desires to alternate bonded wine premises as taxpaid wine bottling house premises or taxpaid wine premises, or other premises qualified under 26 U.S.C. chapter 51, the following qualifying documents will be filed:

(1) A statement on the application TTB F 5120.25 that an alternation of wine premises will occur;

(2) Evidence of existing bond, consent of surety, or a new bond covering the alternation;

(3) A description of how taxpaid wine or spirits, or un taxpaid wine or spirits will be identified and segregated; and

(4) Any other document or additional information the appropriate TTB officer may require.

(c) Alternation. After the necessary qualifying documents have been approved by the appropriate TTB officer, the proprietor may alternate wine premises as described in the application. Any portion of wine premises on which taxpaid wine is located will be considered taxpaid wine premises or taxpaid wine bottling house premises and any portion of the premises on which wine not identified as taxpaid is located will be considered bonded wine premises. The proprietor shall, prior to the

initial alternation of the premises, identify by portable signs or tags, or by any other method or manner satisfactory to the appropriate TTB officer, either all taxpaid wine on taxpaid wine premises or taxpaid wine bottling house premises or all un taxpaid wine on bonded wine premises.

(d) Segregation. The proprietor shall keep un taxpaid wine or spirits physically separated from taxpaid wine or spirits and on the designated premises. This separation will be by use of tanks, rooms, buildings, partitions, pallet stacks, or complete physical separation, or by any other method or manner which will clearly and readily distinguish un taxpaid wine or spirits from taxpaid wine or spirits and is satisfactory to the appropriate TTB officer. Where necessary for the protection of the revenue or enforcement of 26 U.S.C. chapter 51, the appropriate TTB officer may require that the portions of wine premises alternated under this section be separated by partitions or otherwise.

(e) Conditions. Authority for the alternation of bonded wine premises, taxpaid wine bottling house premises, taxpaid wine premises, or other premises qualified under 26 U.S.C chapter 51 is conditioned on compliance by the proprietor with the provisions of this section. Authority for the alternation of bonded wine premises, taxpaid wine bottling house premises, taxpaid wine premises, or other premises qualified under 26 U.S.C. chapter 51 may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5363, 5365, 5367))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999; T.D. ATF-455, 66 FR 29483, May 31, 2001]

Sec. 24.136 Procedure for alternating proprietors.

(a) General. Wine premises, or parts thereof, may be operated alternately by proprietors who have each filed and received approval of the necessary applications and bonds and have qualified under the provisions of this part. Where operations by alternating proprietors are limited to parts of the wine premises, the application will describe areas, buildings, floors, or rooms which will be alternated and will be accompanied by a diagram delineating the parts of the wine premises to be alternated. A separate diagram will be submitted to depict each arrangement under which the wine premises will be operated. Once the qualifying documents have been approved, and operations initiated, the wine premises, or parts thereof, may be alternated. Any transfer of wine, spirits, or other accountable materials from one proprietor to the other proprietor will be indicated in the records and reports of each proprietor. Operation of a bonded winery engaged in the production of wine by an alternate proprietor will be at least one calendar day in length.

(b) Alternation. All operations in any area, building, floor, or room to be alternated will be completely finished and all wine, spirits, and other accountable materials will be removed from the

alternated wine premises or transferred to the incoming proprietor. However, wine, spirits, and other accountable materials may be retained in locked tanks at wine premises to be alternated and remain in the custody of the outgoing proprietor.

(c) Bonds. The outgoing proprietor who has filed bond and intends to resume operation of the alternated areas, buildings, floors, or rooms following suspension of operations by an alternating proprietor shall execute a consent of surety to continue in effect all bonds. Where wine, spirits, or other accountable materials subject to tax under 26 U.S.C. chapter 51 are to be retained in tanks on the wine premises to be alternated, the outgoing proprietor shall also execute a consent of surety to continue the liability of all bonds for the tax on the materials, notwithstanding the change in proprietorship.

(d) Records. Each proprietor shall maintain separate records and submit a separate TTB F 5120.17, Report of Bonded Wine Premises Operations. All transfers of wine, spirits, and other accountable materials will be reflected in the records of each proprietor. Each proprietor shall maintain a record showing the name and registry number of the incoming or outgoing proprietor, the effective date and hour of alternation, and the quantity in gallons and the percent alcohol by volume or proof of any wine, spirits, or other accountable materials transferred or received. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5351, 5352, 5354, 5356, 5361, 5362, 5363, 5367, 5373))

(Approved by the Office of Management and Budget under control numbers 1513-0009, 1513-0053 and 1513-0115)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-338, 58 FR 19064, Apr. 12, 1993]

Sec. 24.137 Alternate use of the wine premises for customs purposes.

(a) General. The wine premises may be alternated as a Customs Bonded Warehouse under applicable customs laws and regulations, for the purpose of measuring, gauging, and bottling or packing wine. The use of the portion of the wine premises alternated as a Customs Bonded Warehouse is subject to the approval of the district director of customs and the appropriate TTB officer. When it is necessary to convey wine in customs custody across bonded wine premises, the proprietor shall comply with the provisions of Sec. 24.92.

(b) Qualifying documents. Where the proprietor desires to alternate a portion of wine premises for customs use, the following qualifying documents will be filed:

- (1) TTB F 5120.25 to cover the alternation;
- (2) A diagram clearly depicting any area, building, floor, room or major equipment in use during the alternation; and
- (3) Any other documents or additional information the appropriate TTB officer may require.

(c) Alternation. After approval of the qualifying documents by the appropriate TTB officer, the proprietor may alternate the wine premises. Portions of the wine premises to be excluded by curtailment or included by extension may not be used for purposes other than those authorized. Prior to the effective date and hour of the alternation, the proprietor shall remove all wine and spirits from the portion of the wine premises to be alternated for customs purposes. (Sec. 201,

Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5365, 5367))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999]

Sec. 24.140 Notice.

(a) General. Where all or part of the operations at a wine premises are to be permanently discontinued, the proprietor shall file with the appropriate TTB officer a notice in letter form to cover the discontinuance. The proprietor shall state in the notice the date on which operations will be discontinued and, if the wine premises are to be transferred to a successor proprietor, the name of the successor proprietor. Any basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203) for the operation discontinued will be submitted to the appropriate TTB officer with a written request for cancellation.

(b) Bonded wine premises. The proprietor shall certify in the notice, as applicable, that:

(1) All wine, spirits, or volatile fruit-flavor concentrate have been lawfully removed from bonded wine premises, destroyed, or transferred to a successor as of the effective date of discontinuance,

(2) No wine, spirits, or volatile fruit-flavor concentrate are in transit to bonded wine premises, and

(3) All approved applications covering the transfer of spirits to bonded wine premises have been returned to the appropriate TTB officer. The proprietor shall submit a report marked ``Final'' on the TTB F 5120.17, Report of Bonded Wine Premises Operations. Any wine, spirits, or volatile fruit-flavor concentrate transferred to a successor will be identified as ``Transferred to successor'' on the report and identified as ``Received from predecessor'' on the initial report filed by the successor.

(c) Taxpaid wine bottling house premises or Taxpaid wine premises. The proprietor shall certify in the notice that all taxpaid United States or foreign wine on hand have been disposed of, or if not yet disposed of, the manner of disposition and the time period in which the disposition will occur. The proprietor shall include taxpaid United States wine on the TTB F 5120.17 report marked ``Final.'' Any United States taxpaid wine transferred to a successor will be identified as ``Transferred to successor'' on the report and identified as ``Received from predecessor'' on the initial report filed by the successor. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control numbers 1513-0009 and 1513-0053)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-338, 58 FR 19064, Apr. 12, 1993; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.145 General requirements.

Each person required to file a bond or consent of surety under this

part must prepare, execute and submit the bond or consent of surety on the prescribed form in accordance with this part and the instructions printed on the form. A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part with respect to the business or operation have been approved by the appropriate TTB officer. (Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13685, Mar. 22, 1999]

Sec. 24.146 Bonds.

(a) Wine bond. The proprietor shall give bond on TTB F 5120.36, Wine Bond, to cover the liability for excise taxes imposed by the Internal Revenue Code of 1986, on wines produced or received by the proprietor. This includes liability for special occupational taxes and penalties and interest. The bond will apply to wine, spirits, and volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C. chapter 51, in transit to or on bonded wine premises, and to the operations of the bonded wine premises, whether the transaction or operation on which the proprietor's liability is based occurred on or off the proprietor's premises. The bond will provide that the proprietor shall faithfully comply with all provisions of law and regulation relating to activities covered by the bond. This bond has a tax obligation limit of \$500 for wine removed from bonded wine premises on which the tax has been determined, but not paid, unless the total penal sum of the operations bond is \$2,000 or more and the proprietor and the surety designate \$1,000 of this amount as the obligation limit for wine on which the tax has been determined, but not paid.

(b) Tax deferral bond. Where the proprietor removes wine from bonded wine premises for consumption or sale, after determination and before payment of tax, and the tax unpaid at any one time amounts to more than \$500, the proprietor shall, in addition to any other bond required by this part, furnish a tax deferral bond on TTB F 5120.36, Wine Bond, to ensure payment of the tax on the wine. Under the conditions provided in paragraph (a) of this section, this amount may be changed to \$1,000 by the terms of the bond or through a consent of surety between the proprietor and the surety. The tax deferral bond and the wine bond may be submitted on the same TTB F 5120.36.

(c) Wine vinegar plant bond. The proprietor of a wine vinegar plant who withdraws wine from a bonded wine premises without payment of tax for use in the manufacture of vinegar shall file a bond on TTB F 5510.2, Bond Covering Removal to and Use of Wine at Vinegar Plant, to ensure the payment of the tax on the wine until such wine becomes vinegar. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-338, 58 FR 19064, Apr. 12, 1993]

Sec. 24.147 Operations bond or unit bond.

Notwithstanding the provisions of Sec. 24.146, each person intending to commence or to continue business as the proprietor of a bonded wine premises with an adjacent or contiguous distilled spirits plant qualified under 27 CFR part 19 for the production of distilled spirits shall, in lieu of a winery bond and the bonds required under the provisions of 26 U.S.C. 5173, as amended, give an operations bond or unit bond in accordance with the applicable provisions of 27 CFR part 19. (Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.150 Powers of attorney.

Each bond, and each consent to changes in the terms of a bond, will be accompanied by a power of attorney whereby the surety authorizes the agent or officer who executed the bond or consent to act on behalf of the surety. The appropriate TTB officer may require additional evidence of the authority of the agent or officer of the surety to execute the bond or consent. The power of attorney will be prepared on a form provided by the surety and executed under the corporate seal of the surety. If the power of attorney is other than a manually signed original, the appropriate TTB officer may require a certification of validity. (July 30, 1947, Ch. 390, Pub. L. 80-280, 61 Stat. 648, as amended (26 U.S.C. 6, 7))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.152 Consents of surety.

Consents of surety to changes in the terms of bonds will be executed on Form 1533 by the principal and by the surety with the same formality and evidence of authority as is required for the execution of bonds.

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.153 Strengthening bonds.

In any instance where the penal sum of the bond on file becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum or give a new bond covering the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Strengthening bonds will show the current date of execution and the effective date. (Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1513-0009)

Sec. 24.154 New or superseding bonds.

When, in the opinion of the appropriate TTB officer, the interests of the Government demand it, or in any case where the validity of the bond becomes impaired in whole or in part for any reason, the principal will be required to give a new bond. A new bond will be required immediately in the case of the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, to continue or to liquidate the business of the principal, will execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When under the provisions of Sec. 24.157 the surety has filed an application to be relieved of liability under any bond given under this part and the principal desires or intends to continue business or operations to which the bond relates, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds will show the current date of execution and the effective date. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1394, as amended (26 U.S.C. 5354, 5362, 5551))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.155 Disapproval and appeal from disapproval.

(a) Disapproval. The appropriate TTB officer may disapprove any bonded wine premises bond or consent of surety if the individual, firm, partnership, corporation, or association giving the bond, or owning, controlling, or actively participating in the management of the bonded wine premises of the individual, firm, partnership, corporation, or association giving the bond, has been previously convicted in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of any law of the United States, if such provision relates to internal revenue or customs taxation of distilled spirits, wine, or beer, or if such offense has been compromised with the person on payment of penalties or otherwise, or

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

(b) Appeal from disapproval. Where a bond or consent of surety is disapproved by the appropriate TTB officer, the person giving the bond may appeal the disapproval to the Administrator. The decision of the Administrator will be final. (Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

(Approved by the Office of Management and Budget under control number 1513-0009)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.156 Termination of bonds.

A bond prescribed in Sec. 24.146 may be terminated as to future liability pursuant to application by the surety as provided in Sec. 24.157; pursuant to approval of a superseding bond; upon receipt of notification from the principal that the business has been discontinued and all wine and spirits have been removed from the bonded wine premises as provided in Sec. 24.140(b); or in the case of a tax deferral bond, the termination will be issued upon receipt of written notification from the principal that removals of wine requiring a tax deferral bond have been discontinued. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5354))

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Sec. 24.157 Application by surety for relief from bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the appropriate TTB officer in whose office the bond is on file, that it desires after a specified date, to be relieved of liability under the bond. The date may not be less than 10 days after the date notice is received by the appropriate TTB officer in the case of a tax deferral bond, and not less than 90 days after the date the notice is received in the case of a bonded wine premises bond or wine vinegar plant bond. The surety will also file with the appropriate TTB officer an acknowledgment, or other evidence of service, of a notice on the principal. The 10 day or 90 day period does not commence until both the acknowledgment or other evidence of service and the notice are filed. If a notice is not thereafter withdrawn in writing, the rights of the principal as supported by the bond will be terminated on the date specified in the notice, and the surety will be relieved from liability to the extent set forth in Sec. 24.158. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.158 Extent of relief.

(a) General. The surety on any bond required by this part who has filed a notice for relief from liability as provided in Sec. 24.157 will be relieved from liability under bond as set forth in this section.

(b) Wine bond. Where a new or superseding bond is filed, the surety of the existing bond will be relieved of future liability with respect to wine, spirits, volatile fruit-flavor concentrate, or any other commodities subject to tax under 26 U.S.C. chapter 51 on hand or in transit to bonded wine premises on or after the effective date of the

new or superseding bond. Notwithstanding such relief, the surety will remain liable for the tax on all wine or volatile fruit-flavor concentrate produced at, and for wine, spirits, and volatile fruit-flavor concentrate consigned to, the bonded wine premises, and for all other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety will, in addition to the continuing liabilities specified above, remain liable for all wine, spirits, volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C. chapter 51 on hand or in transit to bonded wine premises on the date specified in the notice, until all the wine, spirits, volatile fruit-flavor concentrate, or commodities subject to tax under 26 U.S.C. chapter 51 have been lawfully disposed of, or a new bond has been filed covering the liability.

(c) Tax deferral bond. The surety will be relieved of liability for the tax on any wine removed from the bonded wine premises after the date specified in the notice. The surety will continue to be liable for the tax on wine removed for consumption or sale on or before the date specified in the notice, until all tax is fully paid.

(d) Wine vinegar plant bond. The surety will be relieved of liability for tax on wine withdrawn for the manufacture of vinegar after the date specified in the notice. The surety will continue to be liable for the tax on wine withdrawn on or before the date specified in the notice, until all wine is fully accounted for. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

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Sec. 24.159 Release of collateral security.

Collateral security pledged and deposited will be released only in accordance with the provisions of 31 CFR part 225. The collateral security will not be released by the appropriate TTB officer until liability under the bond for which it was pledged has been terminated. If satisfied that the interests of the Government will not be jeopardized, the appropriate TTB officer will fix the date or dates on which a part or all of the collateral security may be released. At any time prior to the release of the collateral security, the appropriate TTB officer may, for proper cause, extend the date of release of the security for such additional length of time as deemed appropriate. (July 30, 1947, Ch. 390, Pub. L. 80-280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.166 Buildings or rooms.

All buildings or rooms on wine premises in which wine operations or other operations as are authorized in this part are conducted will be located, constructed, and equipped in a manner suitable for the intended purpose and to afford adequate protection to the revenue. Each building or room will be constructed of substantial materials and

separated from adjacent or contiguous buildings, rooms, or designated areas in a manner satisfactory to the appropriate TTB officer. Where spirits are to be received and stored in packages, a storage room equipped for locking will be provided. The proprietor shall make provisions to assure TTB officers have ready ingress to and egress from any building or room on wine premises, and shall furnish at the request of the appropriate TTB officer evidence that the means of ingress and egress by TTB officers are assured. Where the appropriate TTB officer finds that any building or room on wine premises is located, constructed, or equipped as to afford inadequate protection to the revenue, the proprietor will be required to make changes in location, construction, or equipment to the extent necessary to afford adequate protection to the revenue. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.167 Tanks.

(a) General. All tanks on wine premises used for wine operations or for other operations as are authorized in this part will be suitable for the intended purpose. Each tank used for wine operations will be located, constructed, and equipped as to permit ready examination and a means of accurately determining the contents. Any tank used for wine operations not enclosed within a building or room will be enclosed within a secure fence unless the premises where the tank is located are enclosed by a fence or wall, or all tank openings are equipped for locking and are locked when used for wine operations and there is no proprietor's representative on the wine premises, or the appropriate TTB officer has approved some other adequate means of revenue protection. All open tanks will be under a roof or other suitable covering.

(b) Other requirements. Each tank used for the taxpayment of wine, storage of spirits, or spirits additions will be constructed and equipped as follows:

(1) An accurate means of measuring the contents of each tank will be provided by the proprietor. When a means of measuring is not a permanent fixture of the tank, the tank will be equipped with a fixed device to allow the approximate contents to be determined readily;

(2) Safe access to all parts of a tank will be provided by the proprietor;

(3) Tanks may not be used until they are accurately calibrated and a statement of certification of accurate calibration is on file at the premises;

(4) If a tank or its means of measuring is changed as to location or position subsequent to original calibration, the tank may not be used until recalibrated; and

(5) All openings in tanks used for the storage, weighing, or measuring of spirits, or for the addition of spirits to wine, will be equipped for locking or have a similar means of revenue protection. Any vents, flame arrestors, foam devices, or other safety devices affixed to a spirits tank will be constructed to prevent extraction of the contents of the tank. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as

amended, 1379, as amended, 1395, as amended (26 U.S.C. 5352, 5357, 5552))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31078, July 9, 1991; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Sec. 24.291 Removal of wine for vinegar production.

(a) General. Still wine may be removed from bonded wine premises, without payment of tax, for use in the manufacture of vinegar. Where the proprietor is also the proprietor of a vinegar plant located adjacent or contiguous to the bonded wine premises, wine may be removed without payment of tax upon filing a consent of surety extending the terms of the wine bond to cover the removal and use of wine in the manufacture of vinegar. Where the proprietor of a vinegar plant is not the proprietor of an adjacent or contiguous bonded wine premises, the proprietor of the vinegar plant may receive wine, without payment of tax, for use in the manufacture of vinegar by filing a bond under the provisions of Sec. 24.146(c) to cover the removal to and use of wine at the vinegar plant.

(b) Vinegar plant records. Each proprietor of a vinegar plant to which wine is shipped, without payment of tax, for use in the manufacture of vinegar shall keep a record of all wine received and used for the manufacture of vinegar and of all vinegar produced and disposed of. The record will show the following information:

(1) The volume and alcohol content of all wine received, the date of receipt, and the name, registry number, and address of the bonded wine premises from which received;

(2) The volume and alcohol content of all wine used in the manufacture of vinegar, and the date of use;

(3) The volume and grain strength of the vinegar produced, and the date of production. (This volume will be reported on a 100-grain strength basis and will be determined by multiplying the wine gallons of vinegar produced by the grain strength thereof and dividing the result by 100); and

(4) The names and addresses of all persons to whom vinegar is shipped, the volume and grain strength shipped to each, and the date of shipment. (Grain strength is a measure of the acetic acid content of vinegar, expressed as 10 times the grams of acetic acid per 100 mL).

(c) Inspection of vinegar plants. The proprietor of a vinegar plant receiving wine, without payment of tax, for use in the manufacture of vinegar shall make the premises and records available for inspection by appropriate TTB officers during regular business hours. (August 16, 1954, ch. 736, 68A Stat. 903, as amended (26 U.S.C. 7606); Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13684, Mar. 22, 1999]

Sec. 70.281 Form of bond and security required.

(a) In general. Any person required to furnish a bond under the provisions of this part shall execute such bond:

- (1) On the appropriate form prescribed by the Bureau and
- (2) With satisfactory surety.

For provisions as to what will be considered "satisfactory surety", see paragraph (b) of this section. The bonds referred to in this paragraph shall be drawn in favor of the United States.

(b) Satisfactory surety--(1) Approved surety company or bonds or notes of the United States. For purposes of paragraph (a) of this section, a bond shall be considered executed with satisfactory surety if:

(i) It is executed by a surety company holding a certificate of authority from the Secretary as an acceptable surety on Federal bonds; or

(ii) It is secured by bonds or notes of the United States as provided in by 31 U.S.C. 9303.

(2) Other surety. Unless otherwise expressly provided in 26 U.S.C. or this part, a bond may, in the discretion of the appropriate TTB officer, be considered executed with satisfactory surety if, in lieu of being executed or secured as provided in paragraph (b)(1) of this section, it is:

(i) Executed by a corporate surety (other than a surety company) provided such corporate surety establishes that it is within its corporate powers to act as surety for another corporation or an individual;

(ii) Executed by two or more individual sureties, provided such individual sureties meet the conditions contained in paragraph (b)(3) of this section;

(iii) Secured by a mortgage on real or personal property;

(iv) Secured by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or any State, Territory, or possession of the United States, or by a U.S. postal, bank, express or telegraph money order;

(v) Secured by corporate bonds or stocks, or by bonds issued by a State or political subdivision thereof, of recognized stability; or

(vi) Secured by any other acceptable collateral. Collateral shall be deposited with the appropriate TTB officer or, in that officer's discretion, with a responsible financial institution acting as escrow agent.

(3) Conditions to be met by individual sureties. If a bond is executed by two or more individual sureties, the following conditions must be met by each such individual surety:

(i) The surety must reside within the State in which the principal place of business or legal residence of the primary obligor is located;

(ii) The surety must have property subject to execution of a current market value, above all encumbrances, equal to at least the penalty of the bond;

(iii) All real property which the surety offers as security must be located in the State in which the principal place of business or legal residence of the primary obligor is located;

(iv) The surety must agree not to mortgage, or otherwise encumber, any property offered as security while the bond continues in effect without first securing the permission of the officer with whom the bond is filed; and

(v) The surety must file with the bond, and annually thereafter so

long as the bond continues in effect, an affidavit as to the adequacy of the security, executed on the appropriate form furnished by the appropriate TTB officer.

Partners may not act as sureties upon bonds of their partnership. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their holdings of the stock of the corporation.

(4) Adequacy of surety. No surety or security shall be accepted if it does not adequately protect the interest of the United States.

(26 U.S.C. 7101)

[T.D. ATF-301, 55 FR 47649, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29028, May 29, 2001]