

1513-0056

26 U.S.C.

Sec. 5171. - Establishment

(a) Certain operations may be conducted only on bonded premises

Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

(b) Establishment of distilled spirits plant

A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) Registration

(1) In general

Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

(2) Application required where new operations are added

No operation in addition to those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

(3) Secretary may establish minimum capacity and level of activity requirements

The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

(4) Applicant must comply with law and regulations

No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3)

Sec. 5207. Records and reports

(a) Records of distilled spirits plant proprietors

Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

(1) The following production activities--

- (A)** the receipt of materials intended for use in the production of distilled spirits, and the use thereof,
- (B)** the receipt and use of distilled spirits received for redistillation, and
- (C)** the kind and quantity of distilled spirits produced.

(2) The following storage activities--

- (A)** the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,
- (B)** the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and
- (C)** the kind and quantity of distilled spirits returned to storage.

(3) The following denaturation activities--

- (A)** the kind and quantity of denaturants received and used or otherwise disposed of,
- (B)** the kind and quantity of distilled spirits denatured, and
- (C)** the kind and quantity of denatured distilled spirits removed.

(4) The following processing activities--

(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

(B) the kind and quantity of distilled spirits packaged or bottled, and

(C) the kind and quantity of distilled spirits removed from his premises.

(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

(b) Reports

Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

(c) Preservation and inspection

The records required by subsection (a) and a copy of each report required by subsection (b) shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

(d) Penalty

For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5).

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1361; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, Sec. 2(e), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, Sec. 807(a)(25), July 26, 1979, 93 Stat. 283; Pub. L. 98-369, div. A, title IV, Sec. 454(c)(6), July 18, 1984, 98 Stat. 821; Pub. L. 105-34, title XIV, Sec. 1413(a), Aug. 5, 1997, 111 Stat. 1046.)

27 CFR

Sec. 19.91 Gauging.

(a) Gauging of spirits and wine. Gauges shall be made by the proprietor. However, the appropriate TTB officer may require that such gauges be made in the presence of and be verified by an appropriate TTB officer. Gauges of spirits, denatured spirits, or wine shall be made in accordance with 27 CFR part 30 and as provided in this part. However, the gauge for wine that is to be transferred to a bonded wine cellar shall be recorded by kind and percent of alcohol by volume. When bulk spirits, denatured spirits, or wines are to be volumetrically measured, the measurement shall be in a tank or bulk conveyance for which a calibration chart is provided, by a meter approved under Sec. 19.277, or, when approved by the appropriate TTB officer, by other devices or methods. Calibration charts shall be certified as accurate by persons qualified to calibrate tanks or bulk conveyances. When spirits in bottles are gauged, the gauge may be established on the basis of legible case markings and label information, if (1) the bottles are full, and (2) there is no evidence that the bottles have been tampered with.

(b) Gauging of alcoholic flavoring materials. Each alcoholic flavoring material shall be gauged when dumped, except that when received from a manufacturer in a closed nonporous bottle, can, or package such material may be gauged by using the proof derived from the container label or a related statement of the proof from the manufacturer. When proof is determined from a label or manufacturer's statement, the proprietor shall periodically test a sufficient number of samples of the alcoholic flavoring material to verify the accuracy of the proof so determined and shall record the results of those tests on the gauge record. The appropriate TTB officer may require that all alcoholic flavoring materials be gauged by the methods provided in 27 CFR part 30.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

Sec. 19.92 When gauges are required.

(a) Initial proof. Except for a gauge required by Sec. 19.383 or Sec. 19.517 or in any case where the proof changes as a result of a storage or processing operation, the initial determination of proof for distilled spirits, wine, or eligible flavors may be used whenever a subsequent gauge is required by this part to be made at the same plant.

(b) Required gauges. Spirits, wine and alcoholic flavoring materials shall be gauged whenever required by this part. Such gauges include:

- (1) Entered for deposit,
- (2) Filled into packages from storage tanks,
- (3) Transferred or received in bond,
- (4) Transferred between operational accounts,
- (5) Mixed in the manufacture of a distilled spirits product,
- (6) Reduced in proof prior to commencement of bottling,
- (7) Destroyed,
- (8) Removed or withdrawn from bond,
- (9) Returned to bond, or

(10) As otherwise required by the appropriate TTB officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

[T.D. ATF-199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF-297, 55 FR 18063, Apr. 30, 1990]

Sec. 19.93 Quantity determination of spirits in bond.

Where bulk spirits in bond are gauged for determination of tax, or are gauged in packages, the quantity shall be determined by weight pursuant to the provisions of 27 CFR part 30. In all other instances where spirits are gauged in bond, gauged for denaturation, or are gauged for transfer in bond or for withdrawal from bond free of tax or without payment of tax, the quantity may be determined by weight or volume. Volumetric determinations of quantity may be made by meters approved under Sec. 19.277.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1396, as amended (26 U.S.C. 5559))
Sec. 19.273 Tanks.

(a) General. (1) Tanks used as receptacles for spirits, denatured spirits, or wines shall be located, constructed, and equipped to be suitable for the intended purpose and to allow ready examination.

(2) An accurate means of measuring the contents of each tank shall be provided by the proprietor.

(3) When a means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device to allow the approximate contents to be determined readily.

(4) Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales and an additional suitable device shall be provided so that the volume of the contents can be quickly and accurately determined.

(5) The proprietor shall install walkways, landings and stairways which will permit safe access to all parts of a tank.

(6) Tanks in which gauges required by this part are to be made shall not be used until they are accurately calibrated and a statement of certification of accurate calibration is included in the notice of registration.

(7) If tanks or their fixed gauging devices are moved in location or position subsequent to original calibration, the tanks shall not be used until recalibrated.

(8) All tanks shall be equipped or situated so that they may be locked or otherwise secured.

(9) Any tank vents, flame arresters, foam devices, or other safety devices shall be constructed to prevent extraction of spirits or wines.

(b) Scale tanks. (1) Beams or dials of scale tanks used for determining the tax imposed by 26 U.S.C. 5001 shall have minimum graduations not greater than the following:

Quantity to be weighed	Minimum graduation
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Not exceeding 2,000 pounds..... 1/2\ 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.

(2) 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 shall be the greater of

- (i) 1,000 times the minimum graduation of the scale or
- (ii) 5 percent of the total capacity of the weighing tank scale.

(3) 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 1/2\ pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation.

(4) Lots of spirits weighing 1,000 pounds or less shall be weighed on scales having 1/2\ pound graduations.

(c) Testing of scale tanks. (1) Proprietors shall ensure the accuracy of scales used for weighing lots of spirits or denatured spirits through tests conducted at intervals of not more than 6 months, and whenever scales are adjusted or repaired.

(2) Proprietors shall also 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 the volumetric determination need only be verified at the next time actually used.

(3) The volumetric determination shall be made in accordance with 27 CFR part 30, and if the variation exceeds 0.5 percent of the quantities shown to be in the tank, the proprietor shall take appropriate steps to have the accuracy of the scale verified.

(4) When an appropriate TTB officer determines that a tank scale may be inaccurate, the proprietor shall have the accuracy of the scale tested.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1358, as amended, 1391, as amended (26 U.S.C. 5006, 5204, 5505))

Sec. 19.276 Package scales.

Proprietors shall ensure the accuracy of scales used for weighing packages of spirits through tests conducted at intervals of not more than 6 months or whenever scales are adjusted or repaired. However, if the scales are not used during such period, the scales need only be tested prior to use. Scales used to weigh packages designed to hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Sec. 19.318 Addition of caramel to rum or brandy and addition of oak chips to spirits.

Caramel possessing no material sweetening properties may be added to rum or brandy on bonded premises prior to production gauge. Oak chips which have not been treated with any chemical may be added to packages prior to or after production gauge; however, notation to that effect shall be made on the record of production gauge as provided in Sec. 19.319.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.319 Production gauge.

(a) General. All spirits shall be gauged by determining quantity and proof within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, by approved meter, or, when approved by the appropriate TTB officer, by other devices or methods which accurately determine the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after the addition. Spirits in each receiving tank shall be gauged before reduction in proof and both before and after each removal of spirits therefrom. The gauges shall be recorded by the proprietor in the records required by Sec. 19.736.

(b) Tax to be determined on production gauge. Tax may be determined on the basis of the production gauge if:

- (1) Spirits are weighed into bulk conveyances;
- (2) Spirits are uniformly filled by weight into metal packages; or
- (3) Spirits are filled by weight into packages for immediate withdrawal from bonded premises and the details of the gauge for each package are recorded on a package gauge record according to Sec. 19.769.

Transaction records shall be marked "Withdrawal on Production Gauge."

(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; or
- (2) Measuring volumetrically, in a calibrated tank, converting the wine gallons determined into proof gallons, and determining therefrom the average content of each container; or
- (3) Converting the rated capacity into proof gallons to determine the average content of each container; or
- (4) Determining by a device or method approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container. Rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer, or in the case of used cooperage, as determined by the proprietor.

(d) Records of production gauge. In computing the production gauge on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons shall be rounded to the nearest one-tenth and the average content so determined and the number of packages filled shall be used in computing the quantity produced. A

separate gauge record, as prescribed in Sec. 19.768, shall be prepared for each lot of packages filled (see Sec. 19.593(b)) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. The gauge record shall indicate "Deposit in storage" or "Deposit in processing." If spirits are to be transferred in bond, or withdrawn from bond, as authorized by this part, the production gauge shall be made on the form or record required by this part for the transaction (accompanied by a package gauge record, if required). Each transaction form or record and each package gauge record, if any, shall show:

(1) The real name (or basic operating name as provided in Sec. 19.280) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual proof gallons in the container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

Sec. 19.320 Identification of spirits.

At the time of production gauge, containers of spirits shall be identified by the proprietor in accordance with subpart R of this part. When the proprietor desires to enter spirits into bonded storage for subsequent packaging in wooden packages, he may identify such spirits with the specific designation to which they would be entitled if drawn into wooden packages, followed by the word "Designate," for example, "Bourbon Whisky Designate."

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

Sec. 19.321 Entry.

Pursuant to the production gauge, the proprietor shall make appropriate entry for (a) deposit of the spirits on bonded premises for storage or processing, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, or (e) transfer of the spirits for redistillation. Entry for deposit on the bonded premises of the same plant premises shall be made on a gauge record, prepared according to Sec. 19.768. When spirits are entered for deposit on another plant premises or are entered for withdrawal or redistillation, the applicable provisions of subpart K or subpart P of this part shall be followed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5211))

Sec. 19.322 Distillates containing extraneous substances.

(a) Use in production. Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system prior to the production gauge for addition to fermenting or distilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of this paragraph shall be added promptly to the fermenting or distilling material.

(b) Use at bonded wine cellar. Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The gauge and removal of distillates to an adjacent bonded wine cellar shall be in accordance with applicable provisions of subpart P of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent bonded wine cellar shall be in accordance with the provisions of 27 CFR part 240.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5201, 5222, 5373))

Sec. 19.329 Production inventories.

Each distiller shall take a physical inventory of the spirits and denatured spirits in tanks and other vessels in the production account at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The inventory shall show separately spirits and denatured spirits received for redistillation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.342 Receipt and storage of bulk spirits and wines.

(a) Deposit. All spirits entered for deposit in the storage account after production as provided in subpart J shall be deposited on the bonded premises designated in the entry for deposit. Spirits withdrawn from customs custody without payment of tax under the provisions of this part shall be received on the bonded premises to which so withdrawn and (unless to be immediately redistilled) shall be deposited on such premises. Spirits transferred in bond as provided in subpart P shall be deposited on the bonded premises designated on the transfer record.

(b) Tanks. If spirits or wines are being deposited in a partially filled tank in storage on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits or wines into and out of the tank is being measured by meters or other devices approved by the appropriate TTB officer which permit a determination of the quantity being deposited and the quantity being removed. Proprietors shall maintain records of spirits or wines in tanks in accordance with subpart W of this part.

(c) Storage. Spirits or wines may be held in the storage account in tanks or portable bulk containers on the bonded premises. When used for such storage, containers shall be kept so that they can be readily inspected or inventoried by appropriate TTB officers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1362, as amended, 1366, as amended, 1398, as amended (26 U.S.C. 5201, 5211, 5212, 5232, 5601); sec. 806(a), Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202); sec. 807(a), Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5231))

Sec. 19.343 Addition of oak chips to spirits and addition of caramel to brandy and rum.

Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling. When oak chips are added to packages, notation of such fact shall be made on all transaction records. Caramel possessing no material sweetening properties may be added to rum or brandy in packages or tanks.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.344 Filling of packages from tanks.

Spirits or wines may be drawn into packages from storage tanks on bonded premises. The spirits or wines in the tank shall be gauged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits or wines remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor in records required by Sec. 19.740 and 19.768. The provisions of Sec. 19.319 regarding the filling of packages and the taking of production gauges of packages shall be applicable to the filling and gauging of packages of spirits under this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.353 Storage inventories.

Each warehouseman shall take a physical inventory of all spirits and wines held in the storage account in tanks and other vessels (except packages) at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The inventory shall separately identify spirits and wines. The results of the inventory shall be recorded in accordance with subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.390 Filling packages.

Spirits may be drawn into packages from a tank (conforming to the requirements of Sec. 19.273). Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on a package gauge record, according to Sec. 19.769, and attach a copy of the package gauge record to each copy of the bottling and packaging record covering the product. Such packages shall be marked as prescribed by subpart R of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.401 Inventories of wines and bulk spirits (except in packages) in processing account.

Each proprietor shall take a physical inventory of wines and bulk spirits (except in packages) in the processing account at the close of each calendar quarter, and at such other time as the appropriate TTB officer may require. The results of the inventory shall be recorded in accordance with subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.402 Inventories of bottled and packaged spirits.

(a) Physical inventories. (1) Physical inventories of bottled and packaged spirits in the processing account shall be taken for the return periods ending June 30 and December 31 of each year, and for other return periods as may be required by the appropriate TTB officer.

(2) Physical inventories may be taken within a period of a few days before or after June 30 or December 31 (or other dates approved by the appropriate TTB officer, if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of bottled or packaged spirits on hand in processing at the prescribed times.

(3) 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:

(i) Coincide with the end of a return period, and

(ii) Are approximately six months apart.

(4) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30 or December 31 inventory.

(b) Waiver of physical inventory. (1) The appropriate TTB officer, on receipt of an application, may relieve a proprietor of the requirement of taking the June 30 or December 31 physical inventory, (or other date approved under paragraph (a) of this section) if he finds that only one such inventory during any 24 consecutive return periods is necessary.

(2) The appropriate TTB officer may reimpose the requirement for the waived inventory if he finds that it is necessary for law enforcement or protection of the revenue.

(c) Notification of physical inventory. Whenever a physical inventory of bottled or packaged spirits is to be taken, the proprietor shall, at least 5 business days in advance, notify the appropriate TTB officer of the date and time he will take such inventory.

(d) Supervision of physical inventories. Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner, as the appropriate TTB officer may require.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.454 Gauge for denaturation.

The proprietor shall gauge spirits before denaturation and after denaturation and record each gauge on the record of denaturation as prescribed in Sec. 19.752(b). However, spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not again be gauged. Measurements of spirits and denaturants shall be made by volume, weight,

by approved meter, or, when approved by the appropriate TTB officer , other devices or methods.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204); sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

Sec. 19.462 Filling of containers from tanks.

Denatured spirits may be drawn into portable containers from tanks on bonded premises. The denatured spirits in the tanks shall be gauged prior to filling of the containers, and when only a portion of the contents of the tank is drawn into containers, the denatured spirits remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor. The provisions of paragraph (a) and (c) of Sec. 19.319 shall be applicable to the filling and gauging of portable containers, and denatured spirits may be withdrawn from bonded premises for any lawful purpose on the filling gauge.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.464 Denatured spirits inventories.

Each proprietor shall take a physical inventory of all denatured spirits in the processing account at the close of each calendar quarter and at such other times as the appropriate TTB officer may require. The results of the inventory shall be recorded as provided in subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Sec. 19.484 Marks on containers of imported spirits.

(a) General. Each portable bulk container of spirits shall, when received on bonded premises under the provisions of Sec. 19.481, or when filled on bonded premises, be marked with:

- (1) The name of the importer;
- (2) The country of origin;
- (3) The kind of spirits;
- (4) The package identification number as provided in Sec. 19.593 or the package serial number as provided in Sec. 19.594;
- (5) If filled on bonded premises, the date of fill;
- (6) The proof; and
- (7) The proof gallons of spirits in the package. Package

identification numbers or package serial numbers shall be preceded by the symbol "IMP" and any distinguishing prefix or suffix used as provided in Sec. 19.594. The proprietor who receives packages of imported spirits under the provisions of Sec. 19.481 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit records by the proprietor who receives the spirits.

(b) Exception. Proprietors are relieved from placing prescribed marks on packages when the spirits will be removed from the packages within 30 days of the date of receipt at the distilled spirits plant. Packages not dumped as provided in this paragraph within the time prescribed must be promptly marked in the manner required by Sec. 19.595. The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit records, and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

Sec. 19.501 Authority to withdraw.

General

Spirits, denatured spirits, and wines shall be removed from bonded premises as provided in this subpart. Spirits entered into bonded storage for subsequent packaging in wooden packages, as provided in Sec. 19.320, which have not been drawn into such packages at the time of withdrawal from bond shall be redesignated to conform to the classes and types set out in subpart R of this part and in 27 CFR part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1362, as amended (26 U.S.C. 5201, 5212, 5214); sec. 807(a), Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

Sec. 19.502 Withdrawal of spirits on production or filling gauge.

When the production or filling gauge is made under the provisions of Sec. 19.319(b), spirits may be withdrawn from bonded premises for any lawful purpose on the production or filling gauge. When the production or filling gauge is made under Sec. 19.319(c), spirits may be withdrawn without payment of tax for export on the production or filling gauge. When spirits which are to be withdrawn on determination of tax on the original gauge are transferred in bond, all copies of the transfer record prescribed in Sec. 19.770 shall be marked by the proprietor "Withdrawal on Original Gauge".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Sec. 19.503 Determination of tare.

When packages are to be individually gauged for withdrawal from bonded premises, actual tare shall be determined in accordance with 27 CFR part 30.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Sec. 19.505 Authorized transfers.

(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 Sec. Sec. 19.506 and 19.998, respectively.

(b) Wine. (1) Wines may be transferred (i) from a bonded wine cellar to the bonded premises of a distilled spirits plant, (ii) from the bonded premises of a distilled spirits plant to a bonded wine cellar, or (iii) between the bonded premises of distilled spirits plants.

(2) Wines transferred to the bonded premises of a distilled spirits plant may be used in the manufacture of a distilled spirits product, and may not be removed from such bonded premises for consumption or sale as wine.

(c) Alcohol for industrial purposes. Alcohol bottled for industrial purposes, as provided in Sec. 19.398, may be transferred between the bonded premises of distilled spirits plants in accordance with the procedures prescribed in Sec. Sec. 19.506 through 19.510 for bulk distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5212, 5362); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-297, 55 FR 18064, Apr. 30, 1990]

Sec. 19.508 Consignor premises.

(a) General. (1) A transfer record shall be prepared according to Sec. 19.770 by (i) the consignor proprietor of a distilled spirits plant (A) to cover the transfer of spirits or denatured spirits in bond to another distilled spirits plant, pursuant to an approved application on Form 5100.16, (B) to cover the transfer in bond of spirits or denatured spirits to an alcohol fuel plant, or (C) to cover the transfer of wine in bond to the bonded premises of a distilled spirits plant or bonded wine cellar; or (ii) the consignor proprietor of an alcohol fuel plant to cover the transfer of spirits to the bonded premises of a distilled spirits plant pursuant to an approved application on Form 5100.16. Except as otherwise provided herein, a transfer record shall be prepared for each conveyance. The proprietor shall also enter on the transfer record the serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits, or denatured spirits. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee (to accompany the shipment, if by truck).

(2) Spirits or denatured spirits produced from petroleum, natural gas, or coal may not be transferred to alcohol fuel plants qualified under 26 U.S.C. 5181.

(3) The consignor proprietor may cover on one transfer record all packages of spirits shipped by truck on the same day from his bonded

premises to the bonded premises of another plant. In such case, the proprietor shall prepare a shipment and delivery order for each shipment, showing the number of packages, their package identification or serial numbers, the name of the producer, warehouseman, or processor, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated and shall constitute a complete record of the spirits so transferred in each truck each day. A copy of each shipping and delivery order shall be retained by the consignor. On completion of the lading of the last truck for the day, the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee.

(b) Packages. When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a secured conveyance, (2) when the individual packages have been securely sealed by the proprietor, or (3) when this requirement has been waived by the appropriate TTB officer on a finding that, because of the location of the premises and the proposed method of operation, there will be no jeopardy to the revenue. When packages are weighed at the time of shipment, the proprietor shall assign temporary serial numbers to the packages and show for each package its gross shipment weight on a package gauge record prepared according to Sec. 19.769. A copy of the package gauge record shall accompany each copy of the transfer record.

(c) Bulk conveyances and pipelines. When spirits, denatured spirits, or wines are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits, denatured spirits, or wines and record the quantity so determined on the transfer record prescribed in Sec. 19.770. Bulk conveyances of spirits or denatured spirits shall be secured by the proprietor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

Sec. 19.509 Reconsignment.

Where, prior to or on arrival at the premises of a consignee, spirits, denatured spirits, or wines transferred in bond are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee. In such case, application to receive spirits or denatured spirits by transfer in bond (on Form 5100.16) shall have been previously approved for the consignee (not required in the case of wines or in the case of alcohol fuel plants receiving spirits or denatured spirits) and the bond of the proprietor to whom the spirits, denatured spirits, or wines are reconsigned shall cover such spirits, denatured spirits, or wines while in transit after reconsignment. Notice of cancellation of the shipment shall be made by the consignor to the consignee. Where the reconsignment is to another proprietor, a new transfer record shall be prepared and prominently

marked with the word "Reconsignment".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

Sec. 19.510 Consignee premises.

(a) General. When spirits, denatured spirits, or wines are received by transfer in bond, the consignee proprietor shall examine each conveyance to determine whether the securing devices, if any, are intact upon arrival at his premises. If the securing devices are not intact, he shall immediately notify the appropriate TTB officer before removal of any spirits from the conveyance. The proprietor shall follow the provisions of subpart Q of this part to determine, record, and report losses, if any. After execution on the transfer record as prescribed in Sec. 19.770 or Form 703, as appropriate, of his receipt of the shipment of spirits, denatured spirits, or wines, the consignee shall retain the original of the transfer record and any accompanying documents for his files, or dispose of Form 703 (in the case of wines from a bonded wine cellar), as provided in the instructions on the form. Retained copies of transfer records and Forms 703 shall become deposit records. Spirits which are produced at alcohol fuel plants shall be separately identified and accounted for as for fuel use, and may not be withdrawn, used, sold or otherwise disposed of for other than fuel use.

(b) Packages. When spirits are received in packages, the consignee proprietor shall weigh each package, except: (1) when the transfer is made in a secured conveyance and the securing devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of Sec. 19.508(b)(3). The proprietor shall record the receiving weight of each package on the accompanying package gauge record or on a list with temporary package serial numbers prepared by the consignor. A copy of such package gauge record or list shall remain with the original of the transfer record.

(c) Bulk conveyances and pipelines. When spirits, denatured spirits, or wines are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits, denatured spirits, or wines and record the gauge on the transfer record prescribed in Sec. 19.770 or, in the case of wines received from a bonded wine cellar, on Form 703. The consignee shall ensure that each conveyance emptied has been thoroughly drained. The appropriate TTB officer may waive the requirement for gauging spirits, denatured spirits, or wines on receipt by pipeline if he finds that because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1380, as amended (26 U.S.C. 5204, 5362); sec. 807(a), Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

Sec. 19.517 Gauge for tax determination.

(a) Packages. When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of an individual package gauge, each package shall be gauged unless the tax is to be determined on the production or filling gauge. When packages are gauged, the proprietor shall prepare a package gauge record, according to Sec. 19.769, and attach it to the record of tax determination prescribed in Sec. 19.761.

(b) Tanks. Spirits in tanks which are to be withdrawn on determination of tax shall be gauged (by weighing and proofing) as prescribed in Sec. 19.93, and the elements of the gauge shall be recorded on the record of tax determination or on a separate record of the gauge for attachment to the record of tax determination.

(c) Cases. Cases of distilled spirits to be withdrawn from bonded premises shall be tax determined on the basis of the contents thereof. The proof gallonage contained in cases shall be determined in accordance with 27 CFR part 30 and the method prescribed in Sec. 19.722.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5204); sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

Sec. 19.532 Withdrawals of spirits for use in wine production.

Wine spirits may be withdrawn to a bonded wine cellar without payment of tax for use in wine production. When wine spirits are consigned, the proprietor shall prepare a transfer record according to Sec. 19.770. Unless wine spirits in packages are to be withdrawn on the production or filling gauge, the proprietor shall prepare a package gauge record according to Sec. 19.769 and attach it to the transfer record.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5373))

Sec. 19.537 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under Sec. 19.536 (a), (b), or (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. Unless the spirits are in cases or are to be withdrawn on the production or filling gauge, the proprietor shall gauge each container. If the spirits are in packages which are to be gauged, the proprietor shall prepare a package gauge record according to Sec. 19.769, and attach it to the record of shipment. For each shipment the proprietor shall prepare a record of shipment (shipping invoice, bill of lading, or another document intended for the same purpose) and forward the original to the consignee, in accordance with Sec. 19.779. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be secured in accordance with Sec. 19.96.

(Approved by the Office of Management and Budget under control number 1513-0056)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF-199, 50 FR 9160, Mar. 6, 1985]

Sec. 19.540 Removal of denatured spirits and articles.

(a) Specially denatured spirits. (1) Specially denatured spirits withdrawn free of tax under Sec. 19.536(d) shall be shipped in approved containers to the consignee designated on the permit. If such spirits are for export or for transfer to a foreign-trade zone for export or for storage pending exportation, they shall be withdrawn under the applicable provisions of part 28 of this chapter.

(2) Domestic specially denatured spirits may be transferred to qualified users located in a foreign-trade zone for use in the manufacture of articles under the applicable provisions of part 20 of this chapter. The alcohol, as defined in 27 CFR part 20, in domestic specially denatured spirits must be produced entirely in the United States, including Puerto Rico.

(3) When specially denatured spirits are shipped to a qualified user, dealer, or an applicant or prospective applicant under paragraph (c)(2)(ii) of this section, the proprietor shall prepare a record of shipment in accordance with Sec. 19.779. Bulk conveyances used to transport specially denatured spirits shall be secured in accordance with the provisions of Sec. 19.96.

(b) Completely denatured alcohol. No permit, application, or notice is required for removal of completely, denatured alcohol from bonded premises.

(c) Samples of denatured spirits. (1) The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business.

(2) The 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 on request by the appropriate TTB officer .

(A) Proprietors shall maintain records to ensure that samples of specially denatured spirits dispensed to a nonpermittee do not exceed five gallons per calendar year. Records of samples of less than five gallons shall be maintained as provided in Sec. 19.766.

(B) Samples in excess of five gallons may be furnished to nonpermittees only after the consignee provides the proprietor with a letterhead application approved by the appropriate TTB officer under Sec. 20.252 of this chapter. The proprietor shall retain the approved letterhead application on file as a part of the record of transaction.

(C) For each shipment of a sample in excess of five gallons under paragraph (c)(2)(ii)(B) of this section, the proprietor shall prepare a record of shipment and forward the original to the consignee, in accordance with Sec. 19.779.

(3) Each sample of specially denatured spirits withdrawn under the provisions of paragraph (c)(2) of this section shall have a label affixed showing the following information:

- (i) The word "Sample", and the words "Specially Denatured Alcohol", or "Specially Denatured Rum", whichever is applicable;
 - (ii) The name, address, and plant number of the proprietor; and
 - (iii) The formula number.
- (d) Articles. Removal of articles from bonded premises shall be in accordance with the provisions of part 20 of this chapter.

(Approved by the Office of Management and Budget under control number 1513-0062)

(48 Stat. 999, as amended, 72 Stat. 1362, as amended, 1370, as amended (19 U.S.C. 81c; 26 U.S.C. 5214, 5271))

[T.D. ATF-199, 50 FR 9161, Mar. 1, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF-274, 53 FR 25156, July 5, 1988; T.D. TTB-8, 69 FR 3829, Jan. 27, 2004]

Sec. 19.562 Determination of losses in bond.

- (a) General. (1) Losses (whether by theft, unauthorized voluntary destruction, or otherwise) of spirits, denatured spirits, and wines shall be determined by the proprietor:
- (i) Each time a tank or bulk conveyance is emptied;
 - (ii) On the basis of required physical inventories; and
 - (iii) Upon discovery of accidents or unusual variations in gauges.
- (2) When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss shall be taxpaid or the container shall be segregated (as necessary) with the loss reported promptly to the appropriate TTB officer.
- (3) In any instance in which spirits, denatured spirits or wines are lost or destroyed in bond, whether by theft, unauthorized voluntary destruction, or otherwise, the appropriate TTB officer may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with Sec. 19.41.
- (b) Missing packages. Whenever any packages of spirits, denatured spirits, or wine recorded as deposited on bonded premises cannot be located or otherwise accounted for, the proprietor shall promptly report such fact to the appropriate TTB officer, and the proprietor shall either pay the tax on the lost spirits, denatured spirits, or wines, or file a claim with respect thereto under the provisions of Sec. 19.41.
- (c) Tampering, material deficiency, or loss of proof. When it is found that spirits, denatured spirits, or wines in a container have been tampered with, or when a material deficiency in the recorded quantity of such products is found without evidence of loss by leakage or casualty, or when there is a loss of proof of such products not attributable to variations in gauging, the proprietor shall segregate the container (as necessary) and shall promptly report such fact to the appropriate TTB officer, unless the proprietor acknowledges liability for the tax on the loss and elects to pay the tax on the quantity lost.
- (d) Excessive in-transit losses. Losses of spirits, denatured spirits, or wines received in bond in bulk conveyances which exceed one

percent of the quantity of a product consigned shall be considered as excessive in-transit losses. However, in the case of transcontinental transfers in bond of wine, only losses in excess of two percent of the quantity of wine consigned shall be considered as excessive in-transit losses. The proprietor shall promptly report all such excessive in-transit losses to the appropriate TTB officer.

(e) Storage account loss limitation. When the quantity of spirits lost from all the storage tanks and bulk conveyances exceeds 1½ percent of the total quantity contained in the tanks and bulk conveyances during the calendar quarter, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of Sec. 19.41 and is allowed by the appropriate TTB officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

Sec. 19.565 Shortages of bottled distilled spirits.

(a) Determination of shortage. Unexplained shortages shall be determined by comparing the spirits recorded to be on hand with the results of the quantitative determination of the spirits found to be on hand by actual count during the physical inventory required by Sec. 19.402. When the recorded quantity is greater than the quantity determined by the physical inventory, the difference is an unexplained shortage. The records shall be adjusted to reflect the physical inventory.

(b) Payment of tax on shortage. An unexplained shortage of bottled distilled spirits shall be taxpaid:

- (1) Immediately on a prepayment return on Form 5000.24, or
- (2) On the return on Form 5000.24 for the return period during which the shortage was ascertained.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

[T.D. TTB-41, 71 FR 5602, Feb. 2, 2006]

Sec. 19.682 Receipt and gauge of returned taxpaid spirits.

(a) Dump. Unless returned in the sealed metal drums in which they were withdrawn, spirits returned to bonded premises shall be immediately dumped.

(b) Gauge. Spirits returned under Sec. 19.681 shall be gauged upon receipt on bonded premises. Such gauge may be established on the basis of case markings and label information, as provided in Sec. 19.91.

(c) Supporting documents. (1) Proprietors must have on file at the plant where spirits are returned to bond such documentation as is necessary to establish the amount of tax for which a claim for credit or refund may be allowed. Proprietors shall maintain credit memoranda or comparable financial records evidencing the return of each lot of spirits.

(2) If the spirits contain eligible wine or eligible flavors, the proprietor shall also have on file a copy of the record of tax

determination prescribed by Sec. 19.761, or other documentation which establishes the amount of tax for which a claim for credit or refund may be allowed. In lieu of establishing the actual effective tax rate of a product, the proprietor may claim refund or credit based on the lowest effective tax rate applied to the product.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-297, 55 FR 18064, Apr. 30, 1990]

Sec. 19.683 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenuation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of 27 CFR part 20. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce or process spirits. Recovered denatured spirits or recovered articles shall be gauged on receipt.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1363, as amended, 1372, as amended (26 U.S.C. 5223, 5273))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-199, 50 FR 9162, Mar. 6, 1985]

Sec. 19.684 Articles and spirits residues received for redistillation.

Articles manufactured under 27 CFR part 20, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits plant authorized to produce or process distilled spirits, for the recovery by redistillation of the distilled spirits contained in those materials. The proprietor shall gauge the materials when received.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-199, 50 FR 9162, Mar. 6, 1985]

Sec. 19.686 Return of spirits withdrawn without payment of tax.

(a) Spirits withdrawn for export. Spirits lawfully withdrawn without payment of tax under the provisions of 27 CFR part 28 for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on

vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and 27 CFR part 28: (1) To the bonded premises of any plant authorized to produce or process distilled spirits, for redistillation; or (2) To the bonded premises from which withdrawn pending subsequent removal for a lawful purpose.

(b) Spirits withdrawn for use in wine production. Wine spirits withdrawn under Sec. 19.532 for use in wine production, and not so used, may be returned to the bonded premises of a distilled spirits plant. The consignee proprietor shall obtain approval, as provided in Sec. 19.506. The wine spirits shall be removed from the winery in accordance with the provisions of 27 CFR part 240.

(c) Spirits withdrawn for research, development, or testing. Spirits withdrawn without payment of tax, under the provisions of subpart V of this part, for research, development, or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. After returning these spirits to bonded premises, they shall be destroyed, returned to containers, or returned to vessels in the distilling system containing similar spirits.

(d) Procedure. When spirits are received, they shall be gauged by the proprietor. When spirits which were removed for exportation are returned to bonded premises pending subsequent removal for a purpose other than exportation, all export marks on the containers in which the spirits are returned shall be obliterated.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23952, June 7, 1985; T.D. TTB-8, 69 FR 3830, Jan. 27, 2004]

Sec. 19.688 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a plant for denaturation or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits or denatured spirits until denatured. The receipt and gauging provisions of Sec. 19.683 are applicable to these spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5243))

Sec. 19.691 Voluntary destruction.

(a) General. Spirits, denatured spirits, articles, or wines in bond may be voluntarily destroyed as provided in this section. The tax liability on spirits, denatured spirits, articles, or wines so destroyed is extinguished.

(b) Wine notice. Wine may be destroyed in bond only after the proprietor has filed notice 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 such notice has been filed.

(c) Gauging. A proprietor shall gauge spirits, denatured spirits, articles, or wines to be destroyed. Gauges of spirits in bottles may be established on the basis of legible case markings and label information when:

- (1) The bottles are full;
- (2) There is no evidence that the bottles have been tampered with.

(d) Off bonded premises. Spirits, denatured spirits, articles or wines may be removed and destroyed at a location off bonded premises if the proprietor has filed a consent of surety to cover such removal. If the destruction is accomplished off plant premises, the proprietor shall ensure compliance with applicable Federal, State, and local environmental laws and regulations.

(e) Record of destruction. The proprietor shall record the destruction of spirits, denatured spirits, articles, or wines as provided in Sec. 19.767.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

Sec. 19.701 Spirits withdrawn from bonded premises.

(a) Samples withdrawn from bonded premises. The proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, to the proprietor's laboratory, the laboratory of an affiliated or subsidiary corporation, or, if approved by the appropriate TTB officer, to a recognized commercial laboratory for testing or analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. The quantity of spirits so withdrawn shall not exceed the amount necessary for conduct of the proprietor's operations.

(b) Customer samples. A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing (other than consumer testing or other market analysis) only if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by the prospective purchaser; except that a sample not to exceed 1 liter may be furnished 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. Spirits may be withdrawn without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the testing, research or development. If the testing, research or development is to be conducted by other than the proprietor, the proprietor shall secure a written statement, executed by the consignee, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by appropriate TTB officers.

- (d) Conditions. (1) Records will be maintained in accordance with

Sec. 19.766 of all spirits taken or withdrawn under the provisions of this section.

(2) Remnants or residues of spirits withdrawn but not used during testing, research or development shall be destroyed or returned to the bonded premises for storage with similar products or entry in the continuous distilling system.

(e) Limitation. The appropriate TTB officer shall proceed to collect the tax on any spirits withdrawn under this section which are found to have been withdrawn, used or disposed of in a manner not authorized by this section.

(f) Losses. When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax as prescribed by Sec. 19.41.

(Sec. 201, Pub. L. 86-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5173))

Sec. 19.702 Samples used on bonded premises.

The proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises of the distilled spirits plant. The applicable purposes, conditions and limitations for samples taken pursuant to Sec. 19.701 shall also apply to samples taken as authorized by this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5008))

Sec. 19.721 Records.

General

(a) In General. (1) The records to be maintained by proprietors shall include:

(i) All individual transaction forms, records, and summaries specifically required by this part;

(ii) All supplemental, auxiliary, and source data utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and

(iii) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(2) The records required by this part may consist of the proprietor's commercial documents, rather than records prepared expressly to meet the requirements of this part, if such documents contain all the details required by this part to be recorded, are consistent with the general requirements of clarity and accuracy, and do not result in difficulty in their examination.

(b) Accounts. The records required by this part to be maintained by proprietors shall be arranged into three primary operational accounts:

- (1) Production,
- (2) Storage, and

(3) Processing.

Records shall indicate receipts, movements between accounts, transfers in bond, or withdrawals of spirits, denatured spirits, articles, or wines.

(c) Exceptions. The term "records" as used in this subpart does not include copies of qualifying documents required under subpart G, or of bonds required under Subpart H of this part.

(d) Special provisions. See 27 CFR 70.22 for information with respect to TTB examination of financial records and books of account.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.723 Maintenance and preservation of records.

(a) Place of maintenance. Records required by this part shall be prepared and kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any appropriate TTB officer during business hours.

(b) Reproduction of original records. (1) Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the appropriate TTB officer under Sec. 19.725 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record.

(2) All provisions of law applicable to the original record shall be applicable to such reproductions.

(c) Retention of records. (1) Records required by this part shall be preserved for a period of not less than three years from the date thereof or the date of the last entry required to be made thereon, whichever is later. However, the appropriate TTB officer may require records to be kept for an additional period not exceeding three years in any case where such retention is deemed necessary or advisable for the protection of the revenue.

(2) The period for retention of records prescribed in paragraph (c)(1) of this section shall not apply to copies of outstanding approved formulas or to copies of formulas which form the basis for claims for credit or refund of taxes on spirits returned to bonded premises. A copy of any such formula shall be kept by the proprietor at the plant where spirits are processed subject to the formula or at the plant where such spirits are received.

(d) Data processing. (1) Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the original transaction (source) records required by Sec. Sec. 19.736-19.779 are kept available for inspection at the plant premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within five business days.

(3) The applicable data processing program shall be made available for examination if requested by an appropriate TTB officer.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.731 General.

(a) Entries. (1) Each entry required by this part to be made in daily records shall be made on the day on which the operation or transaction occurs.

(2) When the proprietor prepares supplemental or auxiliary records concurrent with the individual operation or transaction, and these records contain all the required information with respect to the operation or transaction, entries in daily records may be deferred not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.

(b) Content. (1) All entries in the daily records required by this subpart shall show the date of the operation or transaction.

(2) Daily records shall accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable:

(i) Identification and proper marking and labeling of spirits, denatured spirits, or wines;

(ii) Proprietors to prepare summaries, reports, and returns required by this part; and

(iii) appropriate TTB officers to:

(A) Verify and trace the quantity and movement of materials, spirits, denatured spirits, wines, or alcoholic flavoring materials involved in each transaction or operation;

(B) Verify tax determinations and claims; and

(C) Ascertain whether there has been compliance with law and regulations.

(c) Format. (1) Proprietor's copies of prescribed forms which bear all required details shall be utilized as daily records.

(2) In instances when a form is not prescribed, the records required by this subpart shall be those commercial records used by the proprietor in his accounting system and shall bear all required details.

(3) Daily records required by this part shall be so maintained that they clearly and accurately reflect all mandatory information. Where the format or arrangement of the daily records is such that the information is not clearly or accurately reflected, the appropriate TTB officer may require a format or arrangement which will clearly and accurately reflect the information.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.732 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, except as provided in Sec. 19.751.

(b) Denatured spirits shall be recorded by formula number and by quantity in wine gallons.

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received

on the premises shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. However, when nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded. When it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the proprietor may estimate the weight or volume of the material.

(d) Wines shall be recorded by kind, by quantity in wine gallons, and by percent of alcohol by volume.

(e) Alcoholic flavoring materials shall be recorded by kind, formula number (if any) and by quantity in proof gallons.

(f) Containers (other than those bearing lot identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. However, spirits withdrawn in cases may be recorded without the serial numbers of the cases, unless the appropriate TTB officer requires such recording. Package identification numbers, number of packages, and proof gallons per package shall be recorded on deposit record in the storage account reflecting production gauges or filling of packages from tanks, however, only the lot identification, number of packages, and proof gallons per package need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part.

(g) Materials intended for use in the production of spirits shall be recorded by kind and by quantity, recording liquids in gallons and other materials in pounds, and giving the sugar content for molasses.

(h) The name and address of the consignee or consignor, and if any, the plant number or industrial use permit number of such person, shall be recorded for each receipt or removal of materials, spirits, denatured spirits, articles, spirits residues, and wine.

(i) The serial number of the tank used shall be recorded for each operation or transaction.

(j) The rate of duty paid on imported spirits shall be shown on the transaction forms or records.

(k) Records shall identify imported spirits, spirits from Puerto Rico, and spirits from the Virgin Islands, or the records shall show that a distilled spirits product contains such spirits.

(l) Records shall identify spirits that are to be used exclusively for fuel use.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.766 Record of samples.

(a) Requirement. The proprietor shall maintain records of all samples taken pursuant to subpart V of this part.

(b) Schedule. (1) When the proprietor takes samples pursuant to an established schedule, such schedule may be maintained as the required record if it contains that information required by paragraphs (c)(2) through (c)(8).

(2) When unanticipated samples are taken, the schedule shall be appropriately supplemented.

(c) Detail. Sample records shall show:

(1) Date samples were taken;

(2) Type and identification of container from which taken;

(3) Account from which taken;

(4) Purpose for which taken;

(5) Size and number of samples taken;

(6) Kind of spirits;

(7) Disposition of the sample (e.g., destroyed, returned to containers or the distilling system, retained for library purposes); and

(8) Name and address of the person to whom samples were sent when the samples are to be analyzed or tested elsewhere than at the plant where secured.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.767 Record of destruction.

The proprietor shall record details of the voluntary destruction of spirits, denatured spirits, articles, or wines as follows:

(a) Identification of the spirits, denatured spirits, articles, or wines to include, as applicable, kind, quantity, elements of gauge, name and permit number of the producer, warehouseman or processor, and identification and type of container.

(b) The date, time, place and manner of the destruction;

(c) A statement of whether or not the spirits had previously been withdrawn and returned to bond; and

(d) The name and title of the proprietor's representative who accomplished or supervised the destruction.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.768 Gauge record.

When gauges are required to be made by this part or by the appropriate TTB officer, the proprietor shall prepare a gauge record to show:

(a) Serial number, commencing with "1" at the start of each calendar or fiscal year;

(b) Reason for making the gauge:

(1) Production gauge and entry for deposit in the storage or processing account at the plant where produced;

(2) Packaging of spirits or wine filled from a tank in the storage account at the same plant;

(3) Transfer from the processing or storage account to the production account for redistillation;

(4) Repackaging of spirits of 190 degrees or more of proof; or

(5) Gauge on return to bond in the production or processing account of spirits, denatured spirits, recovered spirits, recovered denatured spirits, articles, recovered articles, or spirits residues.

(c) Date of gauge;

- (d) Related form or record (identification, serial number and date);
- (e) Kind of spirits or formula number of denatured spirits;
- (f) Proof of distillation (not required for denatured spirits, spirits for redistillation, or spirits of 190 degrees or more of proof);
- (g) When containers are to be filled, the type and number of containers;
- (h) Age of spirits;
- (i) Name and plant number of the producer or warehouseman; and
- (j) 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);
 - (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.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.769 Package gauge record.

When required by this part and Part 28, a record shall be prepared to document the gauge of packages of spirits and to convey information on package gauges. The following information shall be recorded:

- (a) Date prepared;
- (b) Identification of the related transaction form or record, and its serial number;
- (c) The name and plant number of the producer or processor (For blended rums or brandies enter name(s) and plant number of blending warehouseman. For spirits of 190 degrees or more of proof, name and plant number of the producer or warehouseman, as appropriate; where the packages have already been marked, the name and plant number marked thereon. For imported spirits, the name of the warehouseman who received the spirits from customs custody and name of importer. For Virgin Islands or Puerto Rican spirits, the name of the producer in the Virgin Islands or Puerto Rico);
- (d) proof of distillation for spirits not over 190 degrees proof; and
- (e) For each package--
 - (1) Serial or identification number;
 - (2) Designate wooden barrels as "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) Kind of spirits;
 - (4) Gross weight determined at the time of original gauge, regauge, or at time of shipment;
 - (5) Present tare on regauge;
 - (6) Net weight for filling gauge or regauge;

- (7) Proof;
- (8) Proof gallons for regauge;
- (9) Original proof gallons; and
- (10) Receiving weights, when a material difference appears on receipt after transfer in bond of weighed packages.

(Approved by the Office of Management and Budget under control number 1513-0056)

(Sec. 807, Pub. L. 93-39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23953, June 7, 1985; T.D. TTB-8, 69 FR 3830, Jan. 27, 2004]

Sec. 19.770 Transfer record.

- (a) Consignor. When required by this part, proprietors shall prepare a transfer record. The transfer record shall show: (1) Serial number, commencing with "1" on January 1 of each year;
- (2) Serial number and date of TTB Form 5100.16 (not required for wine spirits withdrawn without payment of tax for use in wine production);
- (3) Name and distilled spirits plant number of consignor;
- (4) Name and distilled spirits plant number or bonded wine cellar number of the consignee;
- (5) Account from which the spirits or wines were removed for transfer (i.e., production, storage, or processing account);
- (6) Description of the spirits, denatured spirits, or wine--
 - (i) Name and plant number of the producer, warehouseman or processor (Not required for denatured spirits or wine. For imported spirits, record the name and plant number of the warehouseman or processor who received the spirits from customs custody. For transfer of imported spirits from customs custody to TTB bond, record the name of the foreign producer. For Virgin Islands or Puerto Rican spirits, show the name of the producer in the Virgin Islands or Puerto Rico. For spirits of different producers or warehousemen which have been mixed in the processing account, record the name of the processor.);
 - (ii) Kind of spirits or wines (For denatured spirits, show kind and formula number. For alcohol, show material from which produced. For bulk spirits and for alcohol in packages, show kind and proof. For other spirits and wines, use kind designation as defined in 27 CFR Part 4 or 5 as appropriate);
 - (iii) Age (in years, months, and days) and year of production;
 - (iv) Number of packages or cases with their lot identification numbers or serial numbers and date of fill;
 - (v) Type of container (If spirits, denatured spirits or wines are to be transferred by pipeline, show "P/L".);
 - (vi) Proof gallons for distilled spirits, or wine gallons for denatured spirits or wine;
 - (vii) Conveyance identification; and
 - (viii) For distilled spirits products which contain eligible wine or eligible flavors, the elements necessary to compute the effective tax

rate as follows:

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

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

(C) Proof gallons of distilled spirits derived from eligible flavors.

(7) Notation to indicate when spirits are being transferred in bond from production facility to another plant;

(8) Identification of seals, locks or other devices affixed to the conveyance or package (Permanent seals affixed to a conveyance and which remain intact need not be recorded on the transfer record when a permanent record is maintained);

(9) Date; and

(10) Signalty and title of the consignor with the penalties of perjury statement required by Sec. 19.100.

(b) Consignee. (1) When a proprietor receives wine from a bonded wine cellar, the consignee shall complete Form 703 covering such transfer in accordance with the instructions thereon.

(2) When a proprietor receives spirits from an alcohol fuel plant or from customs custody, or spirits, denatured spirits and wines from the bonded premises of another distilled spirits plant, he shall record the results of such receipt on the related transfer record as follows:

(i) Date of receipt;

(ii) Notation whether the securing devices on the conveyance were or were not intact on arrival (not applicable to spirits transferred in unsecured conveyances or denatured spirits);

(iii) Gauge of spirits, denatured spirits, or wine showing the tank number, proof (percent of alcohol by volume for wine) and elements of the weight or volumetric determination of quantity, wine gallons or proof gallons received, and any losses or gains;

(iv) Notation of excessive in-transit loss, missing packages, tampering, or apparent theft;

(v) Account into which the spirits, denatured spirits or wines were deposited (i.e., production, storage or processing); and

(vi) Signature and title of the consignee with the penalties of perjury statement required by Sec. 19.100.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-297, 55 FR 18065, Apr. 30, 1990; 55 FR 23635, June 11, 1990]

Sec. 19.774 Record of inventories.

(a) General. Each proprietor shall make a record of inventories of spirits, denatured spirits, and wines required by Sec. Sec. 19.329, 19.353, 19.401, 19.402, and 19.464. The following information shall be shown:

(1) Date taken;

(2) Identification of container(s);

(3) Kind and quantity of spirits, denatured spirits, and wines;

(4) Losses (whether by theft, voluntary destruction or otherwise), gains or shortages; and

(5) Signature, under penalties of perjury, of the proprietor or person taking the inventory.

(b) Production. Each proprietor shall record the quarterly inventory of spirits as provided in paragraph (a) of this section.

(c) Storage. (1) Each proprietor shall record the quarterly inventory of spirits and wines (except those in packages) as provided in paragraph (a) of this section.

(2) Gains or losses disclosed for each container shall be recorded on the current tank record (or summary record for spirits of 190 degrees or more of proof).

(d) Processing. Each proprietor shall record inventories as provided in paragraph (a) of this section, and for:

(1) Bulk spirits and wines in process, any gains or losses shall be recorded on the individual dump, batch, or bottling record;

(2) Finished products in bottles and packages, any overages, losses, and shortages for the total quantity inventoried shall be recorded in records required by Sec. 19.751; and

(3) Denatured spirits, any gains or losses shall be recorded in the record prescribed by Sec. 19.752.

(e) Retention. Inventory records shall be retained by the proprietor and made available for inspection by appropriate TTB officers.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.775 Record of securing devices.

Each proprietor shall maintain a record of securing devices by serial number showing the number received, affixed to conveyances (in serial order), and otherwise disposed of.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.776 Record of scale tests.

Proprietors shall maintain records of results of tests conducted in accordance with Sec. 19.273 and Sec. 19.276.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Sec. 19.780 Record of distilled spirits shipped to manufacturers of nonbeverage products.

(a) General. Where distilled spirits are shipped to a manufacturer of nonbeverage products, the proprietor shall prepare a record of shipment, forward the original to the consignee, and retain a copy.

(b) Form of record. The record of tax determination prescribed by Sec. 19.761, or any other document issued by the proprietor and containing the necessary information, may be used as the record of shipment.

(c) Required information. In addition to any other information on

the document, the document used as the record of shipment must contain the following information:

- (1) Name, address and registry number of the proprietor;
- (2) Date of shipment;
- (3) Name and address of the consignee;
- (4) Kind, proof, and quantity of distilled spirits in each container;
- (5) Number of containers of each size;
- (6) Package identification numbers or serial numbers of containers;
- (7) Serial number of the applicable record of tax determination; and
- (8) For distilled spirits containing eligible wine or eligible flavors, the effective tax rate.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201 Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

[T.D. ATF-297, 55 FR 18065, Apr. 30, 1990, as amended by T.D. ATF-379, 61 FR 31426, June 20, 1996]

Sec. 24.226 Receipt or transfer of spirits.

When spirits are received at the bonded wine premises, the proprietor shall determine that the spirits are the same as described on the transfer record and follow the procedures prescribed by 27 CFR 19.510. A copy of the transfer record, annotated to show any difference between the description of spirits and quantity received, will be maintained by the proprietor as a record of receipt. If spirits are to be transferred to a distilled spirits plant or to bonded wine premises, the proprietor shall use the transfer record and procedures prescribed by 27 CFR 19.508. (Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

(Approved by the Office of Management and Budget under control number 1513-0115)

Sec. 24.230 Examination of tank car or tank truck.

Upon arrival of a tank car or tank truck at the bonded wine premises, the proprietor shall carefully examine the car or truck to see whether the seals are intact and whether there is any evidence of tampering or loss by leaking or otherwise. Any evidence of loss will be reported to the appropriate TTB officer. The contents of the tank car or tank truck will be gauged by weight or volume at the time of receipt by the proprietor. If the tank car or tank truck has been accurately calibrated and the calibration chart is available at the bonded wine premises, the spirits may be gauged by volume in the tank car or tank truck. In any case where a volume gauge is made, the actual measurements of the spirits in the gauging tank, tank car, or tank truck, and the temperature of the spirits will be recorded on the copy of the transfer record accompanying the shipment. (Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended, 1381, as amended (26 U.S.C. 5206, 5214, 5366))

(Approved by the Office of Management and Budget under control number 1513-0115)

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

Sec. 24.231 Receipt of spirits in sealed bulk containers.

The proprietor shall examine sealed bulk containers (packages) of spirits received at the bonded wine premises to verify that the containers are the same as those described on the transfer record accompanying the shipment. Any container which appears to have been tampered with or from which spirits appear to have been removed or lost will be gauged by the proprietor and the proprietor shall prepare and submit to the appropriate TTB officer a statement setting forth fully the circumstances and apparent cause of any loss. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5366, 5367, 5368, 5373))

(Approved by the Office of Management and Budget under control numbers 1513-0057 and 1513-0115)

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

Sec. 24.232 Gauge of spirits.

(a) If the spirits to be used are in a spirits storage tank on bonded wine premises, or are received immediately prior to use from a distilled spirits plant not adjacent or contiguous to bonded wine premises, the proprietor shall determine the proof of the spirits and the quantity used by volume gauge or by weight. Upon completion of the transfer of spirit from the spirits storage tank to the spirits addition tank, the proprietor shall lock the spirits storage tank.

(b) If the spirits are received from the adjacent or contiguous bonded premises of a distilled spirits plant and are transferred directly into a spirits addition tank, the gauge of the spirits made on the distilled spirits plant premises will be used. The proprietor at the distilled spirits plant premises shall deliver a transfer record to the proprietor of bonded wine premises who shall acknowledge receipt of the spirits on the transfer record.

(c) If the spirits are received in packages and the quantity of spirits needed for the addition is not equal to the contents of full packages, a portion of one package may be used and the remnant package returned to the spirits storage room. The proprietor shall gauge the remnant package and attach to it a label showing the date of gauge, the weight of the remnant package, and the proof. The remnant package will be used at the first opportunity. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5368, 5373))

(Approved by the Office of Management and Budget under control number 1513-0115)

Sec. 26.79 Inspection or gauge and computation of tax.

On receipt of permit to compute the tax on TTB Form 5110.51, the revenue agent shall:

(a) In the case of spirits in packages, prepare a gauge record as provided in Sec. 26.164a in quadruplicate, compute the tax thereon, and attach all copies of the gauge record to TTB Form 5110.51;

(b) In the instance of spirits in cases, verify by inspection the quantity of spirits described on the form; or

(c) In the case of spirits in a bulk conveyance, verify by gauge or inspection the quantity of spirits described on the form.

If the revenue agent determines any variation between his gauge and the quantity of spirits described on Form 5110.51, he shall amend and initial the data in part I of the form. The revenue agent shall deliver all copies of Form 5110.51 and any accompanying package gauge record to the proprietor. The proprietor shall then compute and enter the amount of tax on all copies of Form 5110.51.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.80 Deferred payment of tax--release of spirits.

(a) Action by proprietor. Where the proprietor has furnished bond on TTB Form 5110.50, and payment of the tax is to be deferred, he shall execute an agreement on TTB Form 5110.51 to pay the amount of tax which has been computed and entered on the form. He shall also certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable against this bond. The proprietor shall deliver all copies of TTB Form 5110.51 and any package gauge record as provided in Sec. 26.164a to the revenue agent.

(b) Action by revenue agent. On receipt of TTB Form 5110.51 and any package gauge record, the revenue agent shall verify the computation of the tax entered on the TTB Form 5110.51, and if the proprietor has on file a good and sufficient bond, TTB Form 5110.50, so indicate on TTB Form 5110.51. The revenue agent shall then execute his report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. He shall distribute TTB Form 5110.51 and any package gauge record according to the instructions of TTB Form 5110.51. Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or where the revenue agent has received information that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of TTB Form 5110.51 and any package gauge record to the proprietor, giving his reasons for such action.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.110 Release of articles or liquors.

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of TTB Form 5110.51 or Form 2900 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25, and remittance, the revenue agent shall execute his report of release on TTB Form 5110.51 or Form 2900 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of TTB Form 5110.51 or Form 2900, and any package gauge record as provided in Sec. 26.164a, to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy. A permit shall be obtained as provided in Sec. Sec. 26.114 through 26.116 before the articles manufactured from such liquors may be shipped to the United States.

(Approved by the Office of Management and Budget under control number 1512-0497)

[T.D. ATF-198, 50 FR 8550, Mar. 1, 1985, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. ATF-277, 53 FR 45268, Nov. 9, 1988. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.164a Package gauge record.

When required in this part, with respect to Puerto Rican spirits, a package gauge record shall be prepared to show:

- (a) The date prepared;
- (b) The related transaction form and its serial number;
- (c) The producer or rectifier (processor) of the spirits, and his name, address, and plant registration number; and
- (d) For each package, the:
 - (1) Package identification or serial number;
 - (2) Kind of spirits;
 - (3) Gross weight;
 - (4) Tare;
 - (5) Net weight;
 - (6) Proof gallons; and
 - (7) Proof.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985]

Sec. 26.199a Action by revenue agent.

(a) Gauge. Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall record the quantity and proof of the spirits gauged on TTB Form 5110.31. If the spirits are in packages, the revenue agent shall prepare in sextuplicate a package gauge record according to Sec. 26.164a, attach the package gauge record to TTB Form 5110.31, and dispose of the form (and any attachments) according to the instructions thereon.

(b) Sealing bulk conveyances. When a shipment is made in a tank, van, or other bulk conveyance (other than barrels, drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent in such manner as will prevent unauthorized removal of spirits without detection.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.199b Issuance and disposition of permit.

When the Secretary receives an application on TTB Form 5110.31 and he finds that the applicant is in compliance with law and regulations, he will execute the permit to ship on all copies of TTB Form 5110.31, retain one copy, and any accompanying package gauge record as provided in Sec. 26.164a, and return the remaining copies to the consignor who shall distribute them in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.199d Customs inspection and release.

On receipt of a properly executed TTB Form 5110.31 from the consignor, the customs officer at the port of arrival in the United States shall inspect the corresponding shipment of spirits:

(a) If a shipment is in a bulk conveyance, and:

(1) The seals are intact, he shall release the shipment; or

(2) If the seals are broken, he shall, before release of the spirits, affix customs seals.

(b) If a shipment in packages does not arrive in a sealed conveyance, the packages shall be inspected, and if it appears that any

package has sustained a loss, the package shall be weighed and its new gross weight shall be entered in contrasting color on the package gauge record attached to the related TTB Form 5110.31. The serial numbers of any seals affixed by the customs officers shall be reported on TTB Form 5110.31 under remarks with an explanation and description of any evidence of loss. After completing his inspection, the customs officer shall execute his certificate on each copy of TTB Form 5110.31 and show thereon any exceptions found at the time of his release for transfer of the spirits to internal revenue bond. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall then release the spirits to the consignee's representative and distribute all forms in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985]

Sec. 26.199f Consignee premises.

(a) General. When Puerto Rican spirits are received from customs custody under the provisions of this subpart, the consignee proprietor shall execute the certificate of receipt on TTB Form 5110.31 and examine all containers for evidence of loss. If it appears that spirits were lost by theft or unusual event, the proprietor shall determine the quantity of spirits lost and report the loss according to 27 CFR 19.562.

(b) Packages. Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge.

(c) Distribution of forms. The proprietor shall keep and send copies according the instructions on the form.

(Approved by the Office of Management and Budget under control numbers 1513-0043 and 1513-0056)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]

Sec. 26.273a Transfer record.

The transfer record for Virgin Islands spirits prescribed in Sec. 26.301 shall show the:

- (a) Date prepared;
- (b) Serial number of the transfer record, beginning with "1" each January 1;
- (c) Name of the proprietor and distilled spirits plant number to which consigned;
- (d) Name and address of the consignor;
- (e) Kind of spirits;
- (f) Name of the producer;
- (g) Age (in years, months and days) of the spirits;
- (h) Proof of the spirits;
- (i) Type and serial number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1513-0056)

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. ATF-198, 50 FR 8554, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

Sec. 26.301 Preparation of transfer record.

The person bringing spirits into the United States from the Virgin Islands under this subpart shall prepare a transfer record, in triplicate, according to Sec. 26.273a, and present the record to the customs officer responsible for inspection and release of the spirits. A separate transfer record shall be prepared for each conveyance.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8555, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

Sec. 27.138 Transfer record.

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

- (a) Date prepared;
- (b) Serial number of the transfer record, beginning with "1" each January 1;
- (c) Name and distilled spirits plant number of the proprietor who received the spirits from customs custody;
- (d) Country of origin;
- (e) Name of foreign producer;
- (f) Kind of spirits;
- (g) Age, in years, months and days of the spirits;
- (h) Proof of the spirits;
- (i) Type and number of containers; and
- (j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1513-0056)

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

Sec. 27.172 Preparation of transfer record and package gauge record.

The person importing spirits under this subpart shall prepare a transfer record according to Sec. 27.138. A separate transfer record shall be prepared for each conveyance. If the spirits are in packages he shall prepare a package gauge record according to Sec. 27.139 and

attach it to the transfer record. The transfer record and the package gauge record shall be prepared in triplicate, and, upon release of the spirits from customs custody one copy will be given to the customs officer, one copy will be forwarded to the appropriate TTB officer, and the original will be forwarded to the consignee.

(Approved by the Office of Management and Budget under control number 1513-0056)

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

Sec. 28.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to TTB Form 5100.11 and shall regauge all packages, except those which are to be withdrawn on the filling or production gauge as authorized in 27 CFR part 19. If the withdrawal is to be made subject to regauge, the proprietor shall prepare a package gauge record as provided in 27 CFR part 19, enter the total proof gallons regauged on TTB Form 5100.11, and attach a copy of the package gauge record to each copy of TTB Form 5100.11. If a proprietor wishes to reduce the proof of spirits contained in packages to be withdrawn pursuant to TTB Form 5100.11, he shall make such proof reduction incident to regauge of the packages.

(Approved by the Office of Management and Budget under control number 1513-0037 and 1513-0056)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

[T.D. ATF-198, 50 FR 8559, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

Sec. 28.107 Disposition of forms.

TTB Form 5100.11 and any accompanying package gauge record shall be distributed by the proprietor in accordance with the instruction on TTB Form 5100.11.

(Approved by the Office of Management and Budget under control number 1513-0056)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

Sec. 28.192 Packages of distilled spirits to be gauged.

Except for spirits which may be tax determined on the basis of the original gauge, spirits in packages which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant

proprietor prior to preparation of notice on TTB Form 5110.30. When spirits in packages are gauged, a package gauge record shall be prepared by the proprietor, as provided in 27 CFR part 19, and a copy of the package gauge record shall be attached to each copy of TTB Form 5110.30 and considered a part of the claim.

(Approved by the Office of Management and Budget under control number 1513-0056 and 1513-0042)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.195b Claims on spirits tax determined on and after January 1, 1980.

(a) Preparation. Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by Sec. 28.171, shall be prepared in duplicate by the bottler or packager on parts II and III of TTB Form 5110.30.

(b) Supporting documents. Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by Sec. 28.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the claimed drawback rate exceeds the rate of tax imposed by 26 U.S.C. 5001 or 7652 on each proof gallon or part thereof of distilled spirits produced in or imported into the United States (e.g., a product containing alcoholic flavoring materials on which drawback has been claimed by the manufacturer of the material under 26 U.S.C. 5131-5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge record as prescribed in 27 CFR part 19, and/or bottling and packaging record. The appropriate TTB officer may also require these or other supporting documents for any distilled spirits product.

(c) Filing. One copy of the claim, with supporting documents, if required, shall be filed with the appropriate TTB officer. The bottler or packager shall retain the other copy on file.

(Approved by the Office of Management and Budget under control number 1513-0041)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF-212, 50 FR 34123, Aug. 23, 1985; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]