

26 U.S.C.

Sec. 5132. Registration and regulation

Every person claiming drawback under this subpart shall register annually with the Secretary; keep such books and records as may be necessary to establish the fact that distilled spirits received by him and on which the tax has been determined were used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for use for beverage purposes; and be subject to such rules and regulations in relation thereto as the Secretary shall prescribe to secure the Treasury against frauds.

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1345; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103-465, title I, Sec. 136(b), Dec. 8, 1994, 108 Stat. 4841.)

27 CFR

§ 17.3 Alternate methods or procedures.

(a) General.

The appropriate TTB officer may approve the use of an alternate method or procedure in lieu of a method or procedure prescribed in this part if he or she finds that--

- (1) Good cause has been shown for the use of the alternate method or procedure;
- (2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the method or procedure prescribed by this part, and affords equivalent security to the revenue; and
- (3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

(b) Application.

Application. A letter of application to employ an alternate method or procedure must be submitted to the appropriate TTB officer. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor.

(c) Approval.

No alternate method or procedure shall be employed until the application has been approved by the appropriate TTB officer. The appropriate TTB officer shall

not approve any alternate method relating to the giving of any bond or to the assessment, payment, or collection of any tax. The manufacturer shall, during the period of authorization, comply with the terms of the approved application and with any conditions thereto stated by the appropriate TTB officer in the approval. Authorization for any alternate method or procedure may be withdrawn by written notice from the appropriate TTB officer whenever in his or her judgment the revenue is jeopardized, the effective administration of this part is hindered, or good cause for the authorization no longer exists. The manufacturer shall retain, in the records required by § 17.170, any authorization given by the appropriate TTB officer under this section.

§ 17.54 Lost or destroyed stamps.

If a special tax stamp is lost or accidentally destroyed, the taxpayer shall immediately notify the appropriate TTB officer. On receipt of this notification, the appropriate TTB officer shall issue to the taxpayer a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp." The taxpayer shall keep the certificate available for inspection in the same manner as prescribed for a special tax stamp in § 17.55.

§ 17.101 General.

A bond shall be filed by each person claiming drawback on a monthly basis. Persons who claim drawback on a quarterly basis are not required to file bonds. Bonds shall be prepared and executed on TTB Form 5154.3, Bond for Drawback Under 26 U.S.C. 5131, in accordance with the provisions of this part and the instructions printed on the form. The bond requirement of this part shall be satisfied either by bonds obtained from authorized surety companies or by deposit of collateral security. Appropriate TTB officers are authorized to approve all bonds and consents of surety required by this part.

§ 17.105 Filing of powers of attorney.

(a) Surety companies.

The surety company shall prepare and submit with each bond, and with each consent to changes in the terms of a bond, a power of attorney in accordance with §17.6, authorizing the agent or officer who executed the bond or consent to act in this capacity on behalf of the surety. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If other than a manually signed original is submitted, it shall be accompanied by certification of its validity.

§ 17.111 General.

(a) Bonds on TTB Form 5154.3 shall be terminated by the appropriate TTB officer, as to liability on drawback allowed after a specified future date, in the following circumstances:

- (1) Pursuant to a notice by the surety as provided in § 17.112.
- (2) Following approval of a superseding bond, as provided in § 17.108.
- (3) Following notification by the principal of an intent to discontinue the filing of claims on a monthly basis.

(b) However, the bond shall not be terminated until all outstanding liability under it has been discharged. Upon termination, the appropriate TTB officer shall mark the bond "canceled," followed by the date of cancellation, and shall issue a notice of termination of bond. A copy of this notice shall be given to the principal and to each surety.

§ 17.112 Notice by surety of termination of bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the appropriate TTB officer in whose office the bond is on file that the surety desires, after a date named, to be relieved of liability under the bond. Unless the notice is withdrawn, in writing, before the date named in it, the notice shall take effect on that date. The date shall not be less than 60 days after the date on which both the notice and proof of service on the principal have been received by the appropriate TTB officer. The surety shall deliver one copy of the notice to the principal and the original to the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal.

§ 17.122 Amended or revised formulas.

Except as provided in this section, amended or revised formulas are considered to be new formulas and shall be numbered accordingly. Minor changes may be made to a current formula on TTB Form 5154.1 with retention of the original formula number, if approval is obtained from the appropriate TTB officer. In order to obtain approval to make a minor formula change, the person holding the Form 5154.1 shall submit a letter of application appropriate TTB officer, indicating the formula change and requesting that the proposed change be considered a minor change. Each such application shall clearly identify the original formula by number, date of approval, and name of product. The application shall indicate whether the product is, has been, or will be used in alcoholic beverages, and shall specify whether the proposed change is intended as a substitution or merely as an alternative for the original formula. No changes may be made to current formulas without specific TTB approval in each case.

[T.D. TTB-379, 61 FR 31412, June 20, 1996 as amended by T.D. TTB-436, 66 FR 5470, Jan. 19, 2001]

§ 17.123 Statement of process.

Any person claiming drawback under the regulations in this part may be required, at any time, to file a statement of process, in addition to that required by TTB Form 5154.1, as well as any other data necessary for consideration of the claim for drawback. When pertinent to consideration of the claim, submission of copies of the commercial labels used on the finished products may also be required.

§ 17.124 Samples.

Any person claiming drawback or submitting a formula for approval under the regulations in this part may be required, at any time, to submit a sample of each nonbeverage or intermediate product for analysis. If the product is manufactured with a mixture of oil or other ingredients, the composition of which is unknown to

the claimant, a 1-ounce sample of the mixture shall be submitted with the sample of finished product when so required.

§ 17.125 Adoption of formulas and processes.

(a) Adoption of predecessor's formulas.

If there is a change in the proprietorship of a nonbeverage plant and the successor desires to use the predecessor's formulas at the same location, the successor may, in lieu of submitting new formulas in its own name, adopt any or all of the formulas of the predecessor by filing a notice of adoption with the appropriate TTB officer. The notice shall be filed with the first claim relating to any of the adopted formulas. A letterhead notice must be filed with the appropriate TTB officer and be accompanied by two photocopies of each formula to be adopted. The notice shall be accompanied by a certified copy of the articles of incorporation or other document(s) necessary to prove the transfer of ownership. The manufacturer shall retain a copy of the notice with the related formulas.

§ 17.143 Notice for monthly claims.

If the manufacturer has notified the appropriate TTB officer, in writing, of an intention to file claims on a monthly basis instead of a quarterly basis, and has filed a bond in compliance with the provisions of this part, claims may be filed monthly instead of quarterly. The election to file monthly claims shall not preclude a manufacturer from filing a single claim covering an entire quarter, or a single claim covering just two months of a quarter, or two claims (one of them covering one month and the other covering two months). An election for the filing of monthly claims may be withdrawn by the manufacturer by filing a notice to that effect, in writing, with the appropriate TTB officer.

[T.D. TTB-379, 61 FR 31412, June 20, 1996 as amended by T.D. TTB-436, 66 FR 5471, Jan. 19, 2001]

§ 17.144 Bond for monthly claims.

Each person intending to file claims for drawback on a monthly basis shall file an executed bond on TTB Form 5154.3, conforming to the provisions of subpart E of this part. A monthly drawback claim shall not be allowed until bond coverage in a sufficient amount has been approved by the appropriate TTB officer. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount is furnished.

§ 17.168 Recovered spirits.

(a) Each manufacturer intending to recover distilled spirits under the provisions of this part shall first notify the appropriate TTB officer. Any apparatus used to separate alcohol is subject to the registration requirements of 26 U.S.C. 5179 and subpart C of part 29 of this chapter. Recovery operations shall only be conducted on the premises covered by the manufacturer's special tax stamp.

§ 17.183 Disposition of recovered alcohol and material from which alcohol can be recovered.

(a) Recovered alcohol.

Manufacturers of nonbeverage products shall not sell or transfer recovered spirits to any other premises without TTB authorization under §17.3. If recovered spirits are stored pending reuse, storage facilities shall be adequate to protect the revenue. If recovered spirits are destroyed, the record required by §17.168(c) must be kept. Spirits recovered from intermediate products may be destroyed without notice to TTB. Spirits recovered from nonbeverage products may be destroyed pursuant to a notice filed with the regional director (compliance) at least 12 days prior to the date of destruction. The notice shall state the reason for the destruction, the intended date of destruction, and the approximate quantity involved. The regional director (compliance) may impose specific conditions, including requiring that the destruction be witnessed by an appropriate TTB officer. Unless the manufacturer is otherwise advised by the regional director (compliance) before the date specified in the notice, the destruction may proceed as planned.

(b) By-product material (general).

By-product material from which alcohol can be recovered shall not be sold or transferred unless the alcohol has been removed or an approved substance has been added to prevent recovery of residual alcohol. Material from which alcohol can be recovered may also be destroyed on the manufacturer's premises by a suitable method. Except as provided in paragraph (c) of this section, prior written approval shall be obtained from the appropriate TTB officer as to the adequacy, under this section, of any substance proposed to be added to prevent recovery of alcohol, or of any proposed method of destruction.

(c) Spent vanilla beans.

Specific approval from the appropriate TTB officer is not required when spent vanilla beans containing residual alcohol are destroyed on the manufacturer's premises by burning, or when they are removed from those premises after treatment with sufficient kerosene, mineral spirits, rubber hydrocarbon solvent, or gasoline to prevent recovery of residual alcohol.

§ 17.187 Discontinuance of business.

The manufacturer shall notify TTB when business is to be discontinued. Upon discontinuance of business, a manufacturer's entire stock of taxpaid distilled spirits on hand may be sold in a single sale without the necessity of qualifying as a wholesaler under part 1 of this chapter or paying special tax as a liquor dealer under part 31 of this chapter. The spirits likewise may be returned to the person from whom purchased, or they may be destroyed or given away.