

## **1513-0046**

### **26 U.S.C.**

#### **Sec. 5222. Production, receipt, removal, and use of distilling materials**

##### (a) Production, removal, and use

(1) No mash, wort, or wash fit for distillation or for the production of distilled spirits shall be made or fermented in any building or on any premises other than on the bonded premises of a distilled spirits plant duly authorized to produce distilled spirits according to law; and no mash, wort, or wash so made or fermented shall be removed from any such premises before being distilled, except as authorized by the Secretary; and no person other than an authorized distiller shall, by distillation or any other process, produce distilled spirits from any mash, wort, wash, or other material.

(2) Nothing in this subsection shall be construed to apply to--

(A) authorized operations performed on the premises of vinegar plants established under part I of subchapter H;

(B) authorized production and removal of fermented materials produced on authorized brewery or bonded wine cellar premises as provided by law;

(C) products exempt from tax under the provisions of section 5042 or 5053(e);  
or

(D) fermented materials used in the manufacture of vinegar by fermentation.

##### (b) Receipt

Under such regulations as the Secretary may prescribe, fermented materials to be used in the production of distilled spirits may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits as follows--

(1) from the premises of a bonded wine cellar authorized to remove such material by section 5362(c)(6);

(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or

(3) cider exempt from tax under the provisions of section 5042(a)(1).

##### (c) Processing of distilled spirits containing extraneous substances

The Secretary may by regulations provide for the removal from the distilling system, and the addition to the fermented or unfermented distilling material, of distilled spirits containing substantial quantities of fusel oil or aldehydes, or other extraneous substances.

##### (d) Penalty

For penalty and forfeiture for unlawful production, removal, or use of material fit for distillation or for the production of distilled spirits, and for penalty and forfeiture for unlawful production of distilled spirits, see sections 5601(a)(7), 5601(a)(8), and 5615(4).

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1365; amended Pub. L. 94-455, title XIX, Secs. 1905(b)(6)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95-458, Sec. 2(b)(4), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 96-39, title VIII, Sec. 807(a)(30), July 26, 1979, 93 Stat. 286; Pub. L. 105-34, title XIV, Sec. 1414(a), Aug. 5, 1997, 111 Stat. 1047.)

**Sec. 5223. - Redistillation of spirits, articles, and residues**

**(a) Spirits on bonded premises**

The proprietor of a distilled spirits plant authorized to produce distilled spirits may, under such regulations as the Secretary shall prescribe, redistill any distilled spirits which have not been withdrawn from bonded premises.

**(b) Distilled spirits returned for redistillation**

Distilled spirits which have been lawfully removed from bonded premises free of tax or without payment of tax may, under such regulations as the Secretary may prescribe, be returned for redistillation to the bonded premises of a distilled spirits plant authorized to produce distilled spirits.

**(c) Redistillation of articles and residues**

Articles, containing denatured distilled spirits, which were manufactured under the provisions of subchapter D or on the bonded premises of a distilled spirits plant, and the spirits residues of manufacturing processes related thereto, may be received, and the distilled spirits therein recovered by redistillation, on the bonded premises of a distilled spirits plant authorized to produce distilled spirits, under such regulations as the Secretary may prescribe.

**(d) Denatured distilled spirits, articles, and residues**

Distilled spirits recovered by the redistillation of denatured distilled spirits, or by the redistillation of the articles or residues described in subsection (c), may not be withdrawn from bonded premises except for industrial use or after denaturation thereof in the manner prescribed by law.

**(e) Products of redistillation**

All distilled spirits redistilled on bonded premises subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter applicable to the original production of distilled spirits shall be applicable thereto. Any prior obligation as to taxes, liens, and bonds with respect to such distilled spirits shall be extinguished on redistillation. Nothing in this subsection shall be construed as affecting any provision of law relating to the labeling of distilled spirits or as limiting the authority of the Secretary to regulate the marking, branding, or identification of distilled spirits redistilled under this section.

**Sec. 5232. - Imported distilled spirits**

**(a)** Transfer to distilled spirits plant without payment of tax

Distilled spirits imported or brought into the United States in bulk containers may, under such regulations as the Secretary shall prescribe, be withdrawn from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits. The person operating the bonded premises of the distilled spirits plant to which such spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under this section upon release of the spirits from customs custody, and the importer, or the person bringing such distilled spirits into the United States, shall thereupon be relieved of his liability for such tax.

**(b)** Withdrawals, etc.

Distilled spirits transferred pursuant to subsection (a) -

(1) may be redistilled or denatured only if of 185 degrees or more of proof, and

(2) may be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits.

**Sec. 5555. Records, statements, and returns**

**(a)** General

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may prescribe.

**(b)** Authority to waive

Whenever in this chapter any record is required to be made or kept, or statement or return is required to be made by any person, the Secretary may by regulation waive, in whole or in part, such requirement when he deems such requirement to no longer serve a necessary purpose. This subsection shall not be construed as authorizing the waiver of the payment of any tax.

**(c)** Photographic copies

Whenever in this chapter any record is required to be made and preserved by any person, the Secretary may by regulations authorize such person to record, copy, or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process, which accurately reproduces or forms a durable medium for so reproducing the original of such record and to retain such reproduction in lieu of the original. Every person who is authorized to retain such reproduction in lieu of the original shall, under such regulations as the Secretary may prescribe, preserve such reproduction in conveniently accessible files and make provision for examining, viewing, and using such reproduction the same as if it were the original. Such reproduction shall be treated and considered for all purposes as though it were the original record and all provisions of law applicable to the original

shall be applicable to such reproduction. Such reproduction, or enlargement or facsimile thereof, shall be admissible in evidence in the same manner and under the same conditions as provided for the admission of reproductions, enlargements, or facsimiles of records made in the regular course of business under section 1732(b) of title 28 of the United States Code.

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, Sec. 454(c)(10), July 18, 1984, 98 Stat. 821.)

## **27 U.S.C.**

### **Sec. 205. - Unfair competition and unlawful practices**

It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

#### **(e) Labeling**

To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with such regulations, to be prescribed by the Secretary of the Treasury, with respect to packaging, marking, branding, and labeling and size and fill of container

**(1)** as will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit, irrespective of falsity, such statements relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matters as the Secretary of the Treasury finds to be likely to mislead the consumer;

**(2)** as will provide the consumer with adequate information as to the identity and quality of the products, the alcoholic content thereof (except that statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages are prohibited unless required by State law and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume), the net contents of the package, and the manufacturer or bottler or importer of the product;

**(3)** as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled, or in case of neutral spirits or of gin produced by a process of continuous distillation, the name of the commodity from which distilled;

**(4)** as will prohibit statements on the label that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; and

**(5)** as will prevent deception of the consumer by use of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, and as will prevent the use of a graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been indorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: Provided, That this clause shall not apply to the use of the name of any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, wine, or malt beverages, nor to the use by any person of a trade or brand name used by him or his predecessor in interest prior to August 29, 1935; including regulations requiring, at time of release from customs custody, certificates issued by foreign governments covering origin, age, and identity of imported products: Provided further, That nothing herein nor any decision, ruling, or regulation of any Department of the Government shall deny the right of any person to use any trade name or brand of foreign origin not presently effectively registered in the United States Patent and Trademark Office which has been used by such person or predecessors in the United States for a period of at least five years last past, if the use of such name or brand is qualified by the name of the locality in the United States in which the product is produced, and, in the case of the use of such name or brand on any label or in any advertisement, if such qualification is as conspicuous as such name or brand.

It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon distilled spirits, wine, or malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law or except pursuant to regulations of the Secretary of the Treasury authorizing relabeling for purposes of compliance with the requirements of this subsection or of State law.

In order to prevent the sale or shipment or other introduction of distilled spirits, wine, or malt beverages in interstate or foreign commerce, if bottled, packaged, or labeled in violation of the requirements of this subsection,

**(1)** no bottler of distilled spirits, no producer, blender, or wholesaler of wine, or proprietor of a bonded wine storeroom, and no brewer or wholesaler of malt beverages shall bottle, and

**(2)** no person shall remove from customs custody, in bottles, for sale or any other commercial purpose, distilled spirits, wine, or malt beverages, respectively, after such date as the Secretary of the Treasury fixes as the earliest practicable date for the application of the provisions of this subsection to any class of such persons (but not later than August 15, 1936, in the case of distilled spirits, and December 15, 1936, in the case of wine and malt beverages, and only after thirty days' public notice), unless, upon application to the Secretary of the Treasury, he has obtained and has in his possession a certificate of label approval covering the distilled spirits, wine, or malt beverages, issued by the Secretary in such manner and form as he shall by

regulations prescribe: Provided, That any such bottler of distilled spirits, or producer, blender, or wholesaler of wine, or proprietor of a bonded wine storeroom, or brewer or wholesaler of malt beverages shall be exempt from the requirements of this subsection if, upon application to the Secretary, he shows to the satisfaction of the Secretary that the distilled spirits, wine, or malt beverages to be bottled by the applicant are not to be sold, or offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce. Officers of internal revenue are authorized and directed to withhold the release of distilled spirits from the bottling plant unless such certificates have been obtained, or unless the application of the bottler for exemption has been granted by the Secretary; and customs officers are authorized and directed to withhold the release from customs custody of distilled spirits, wine, and malt beverages, unless such certificates have been obtained. The District Courts of the United States, and the United States court for any Territory shall have jurisdiction of suits to enjoin, annul, or suspend in whole or in part any final action by the Secretary upon any application under this subsection; or

## 27 CFR

### Sec. 5.27 Formulas.

Formulas are required for distilled spirits operations which change the character, composition, class or type of spirits as follows:

(a) The compounding of spirits through the mixing of any coloring, flavoring, wine, or other material with distilled spirits;

(b) The manufacture of an intermediate product to be used exclusively in other distilled spirits products on bonded premises;

(c) Any filtering or stabilizing process which results in a product which does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits; and, in the case of straight whisky, results in the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or more than 25 percent of the soluble color;

(d) The mingling of spirits (including merchandise returned to bond) which differ in class or type of materials from which produced;

(e) The mingling of spirits stored in charred cooperage with spirits stored in plain or reused cooperage, or the mixing of spirits that have been treated with wood chips with spirits not so treated, or the mixing of spirits that have been subjected to any treatment which changes their character with spirits not so treated, unless it is determined that the composition of the spirits is the same, notwithstanding the storage in different kinds of cooperage or the treatment of a portion of the spirits;

(f) The use (except as authorized for production or storage operations as provided by 27 CFR part 19) of any physical or chemical process or any apparatus which accelerates the maturing of the spirits;

(g) The steeping or soaking of fruits, berries, aromatic herbs, roots, seeds, etc., in spirits or wines;

(h) The artificial carbonating of spirits;

(i) The blending in Puerto Rico of spirits with any liquors manufactured outside of Puerto Rico;

(j) The production of gin by--

(1) Redistillation over juniper berries and other natural aromatics, or the extracted oils of such, of spirits distilled at or above 190 degrees of proof, free from impurities, including spirits of such a nature recovered by redistillation of imperfect gin spirits; and

(2) Mixing gin with other spirits;

(k) The treatment of gin by--

(1) Addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation; and

(2) Addition of any substance or material other than juniper berries or other natural aromatics, or the extracted oils of such, or pure water to the spirits, before or during redistillation, in a manner that would change its class and type designation;

(l) The production of vodka by--

(1) Treatment of neutral spirits with not less than one ounce of activated carbon per 100 wine gallons of spirits;

(2) Redistillation of pure spirits so as to be without distinctive character, aroma, taste, or color;

(3) Mixing with other spirits or with any other substance or material except pure water, after production; and

(m) The recovery of spirits by redistillation from distilled spirits products containing other alcoholic ingredients and from spirits which have previously been entered for deposit. However, no formula shall be required for spirits redistilled into any type of neutral spirits other than vodka or spirits redistilled at less than 190 degrees of proof which lack the taste, aroma and other characteristics generally

attributed to whisky, brandy, rum, or gin, and are designated as ``Spirits," preceded or followed by a word or phrase descriptive of the material from which produced. Such spirits redistilled on or after July 1, 1972, may not be designated ``Spirits Grain" or ``Grain Spirits."

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

[T.D. ATF-198, 50 FR 8463, Mar. 1, 1985, as amended by T.D. ATF-259, 52 FR 41423, Oct. 28, 1987]

### **Sec. 19.324 Statement of production procedure or Form 5110.38.**

(a) A statement of production procedure is required as provided in Sec. 19.170 for the production of spirits from original sources or substances.

(b) As provided in 27 CFR 5.27, an approved formula on Form 5110.38 is required for the redistillation of spirits in the production account.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended, 1395, as amended (26 U.S.C. 5201, 5222, 5223, 5555))

### **Sec. 19.641 Certificate of label approval or exemption.**

(a) Requirement. Proprietors are required by 27 CFR part 5 to obtain approval of labels, or exemption from label approval, for any label to be used on bottles of spirits for domestic use and shall exhibit evidence of label approval, or of exemption from label approval, on request of an appropriate TTB officer.

(b) Cross reference. For procedures regarding the issuance, denial and revocation of certificates of label approval and certificates of exemption from label approval, as well as appeal procedures, see Part 13 of this chapter.

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

### **Sec. 26.50 Formulas for liquors.**

Source: 44 FR 71709, Dec. 11, 1979, unless otherwise noted.

(a) Distilled spirits products. Except for products which are exempt from tax, as specified in Sec. 26.36, formulas are required by part 5 of this chapter for distilled spirits products shipped to the United States from Puerto Rico. If a formula is submitted to cover only the production of spirits which are to be transferred to the bonded premises of a DSP under 26 U.S.C. 5232, the formula shall include a statement to that effect. If any product contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. These formulas shall be submitted on TTB Form 5110.38, in accordance with Sec. 26.54.

(b) Wine. Persons in Puerto Rico who ship wine to the United States shall comply with the formula requirements of 27 CFR part 240. If any wine contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 698 Supplemental, in accordance with Sec. 26.54.

(Approved by the Office of Management and Budget under control number 1513-0046)



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

**Sec. 26.54 Filing and disposition of formulas.**

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed TTB form. The applicant shall maintain copies of approved formulas available for examination by revenue agents.

[ T.D. ATF-451, 66 FR 21669, May 1, 2001]

**Sec. 26.197 Furnishing formula to consignee.**

Prior to the first shipment, the person shipping the spirits to the United States shall furnish a reproduced copy of the approved formula covering such spirits to the appropriate TTB officer, and to the proprietor of each distilled spirits plant to receive the spirits.

(Approved by the Office of Management and Budget under control number 1513-0046)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]