

## **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**

### **§ 19.451 General.**

Authorized proprietors who are qualified as processors may conduct denaturing operations or manufacture articles pursuant to the provisions of this part. Proprietors shall not conduct denaturing operations or manufacture articles except as provided in this part. Records of denaturing operations and the manufacture of articles shall be maintained in accordance with §19.752 and §19.753.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178); sec. 807(a), Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

### **§ 19.453 Testing of denaturants.**

(a) *Testing.* Proprietors shall ensure that the materials they receive for use in denaturing conform to the specifications prescribed in 27 CFR part 21. The appropriate TTB officer may require the testing of denaturants at any time.

(b) *Samples.* Samples of denaturants shall be taken in such manner as to represent a true composite of the total lot being sampled. When samples are tested by persons other than a proprietor, a copy of the analysis or a statement, signed by the chemist performing the test, shall be secured and filed by the proprietor for each test. Samples of denaturants may be taken by appropriate TTB officers at any time for testing by Government chemists.

(c) *Conformity.* When a denaturant does not conform to the specifications prescribed under 27 CFR part 21, the proprietor shall not use the material unless he treats or manipulates the denaturant to make it conform to such specifications. Such treated or manipulated denaturant shall again be tested.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

### **§ 19.457 Neutralizing denatured spirits.**

Proprietors may add trace quantities of compounds such as caustics or acids to certain formulas of denatured spirits to neutralize such spirits, if the intended effect of the denaturants is not reduced. Proprietors who neutralize denatured

spirits must record, for each formula the kinds and quantities of compounds used, and the formula number of the denatured spirits neutralized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242); sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

**§ 19.458 Restoration and redensation of recovered denatured spirits and recovered articles.**

Recovered denatured spirits and recovered articles received on bonded premises, as provided in subpart U of this part, for restoration (including redistillation, if necessary) and/or redensation may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. If the recovered or restored denatured spirits or recovered articles are to be redensated and do not require the full amount of denaturants for redensation, a notation to that effect will be made on the record of denaturation required by §19.752(b).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

**§ 19.721 Records.**

(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))

#### **§ 19.722 Conversion between metric and U.S. units.**

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows: (a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal; or (b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth. Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

#### **§ 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 §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 §§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))

### **§ 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) 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.

### **§ 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 §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))

**§ 19.752 Denaturation records.**

(a) General.

Each processor qualified to denature spirits shall maintain daily records of denaturation showing:

(1) Spirits received for, and used in, denaturation;

(2) Spirits, denatured spirits, recovered denatured spirits, spirits residues, and articles redistilled in the processing account for denaturation;

(3) Kind and quantity of denaturants received, used in denaturation of spirits, or otherwise disposed of;

(4) Conversion of denatured alcohol formulas in accordance with §19.460;

(5) Denatured spirits produced, received, stored in tanks, filled into containers, removed, or otherwise disposed of;

(6) Recovered denatured spirits or recovered articles received, restored, and/or redenatured;

(7) Packages of denatured spirits filled with a separate record for each formula number and filed in numerical order according to the serial number or lot identification number of the packages;

(8) Losses; and

(9) Disposition of denatured spirits.

(b) Record of denaturation.

Each time spirits are denatured, a record shall be prepared to show the formula number, the tank in which denaturation takes place, the proof gallons of spirits before denaturation, the quantity of each denaturant used (in gallons, or in pounds or ounces), and wine gallons of denatured spirits produced.

**§ 19.753 Record of article manufacture.**

Each processor qualified to manufacture articles shall maintain daily records arranged by the name and authorized use code of the article to show the following:

- (a) Quantity, by formula number of denatured spirits used in the manufacture of the article;
- (b) Quantity of each article manufactured; and
- (c) Quantity of each article removed, or otherwise disposed of, including the name and address of the person to whom sold or otherwise disposed of.

**§ 19.792 Reports.**

(a) Reports required by this section shall be prepared as of the end of the applicable reporting period. The original shall be submitted to the appropriate TTB officer and a copy retained by the proprietor.

(b) Proprietors shall submit the following summary reports of their operations:

Title	Form No.	Reporting period
(1) Production report	5110.40	Monthly.
(2) Storage report	5110.11	Do.
(3) Processing reports		
(i) Manufacturing/bottling	5110.28	Do.
(ii) Denaturation (including articles).	5110.43	Do.

(c) All reports required by this part shall be prepared and submitted to the appropriate TTB officer not later than the 15th day of the month following the close of the reporting period.

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

(Sec. 807, Pub. L. 96-39, 98 Stat. 284 (26 U.S.C. 5207))

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