

1513-0048

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. 5172. - Application

The application for registration required by section 5171(c) shall, in such manner and form as the Secretary may by regulations prescribe, identify the applicant and persons interested in the business (or businesses) covered by the application, show the nature, location and extent of the premises, show the specific type or types of operations to be conducted on such premises, and show any other information which the Secretary may by regulations require for the purpose of carrying out the provisions of this chapter

Sec. 5201. - Regulation of operations

(a) General

Proprietors of distilled spirits plants shall conduct all operations authorized to be conducted on the premises of such plants under such regulations as the Secretary shall prescribe.

(b) Distilled spirits for industrial uses

The regulations of the Secretary under this chapter respecting the production, warehousing, denaturing, distribution, sale, export, and use of distilled spirits for industrial purposes shall be such as he deems necessary, advisable, or proper to secure the revenue, to prevent diversion to illegal uses, and to place the distilled spirits industry and other industries using such distilled spirits as a chemical raw material or for other lawful industrial purposes on the highest possible plane of scientific and commercial efficiency and development consistent with the provisions of this chapter. Where

nonpotable chemical mixtures containing distilled spirits are produced for transfer to the bonded premises of a distilled spirits plant for completion of processing, the Secretary may waive any provision of this chapter with respect to the production of such mixtures, and the processing of such mixtures on the bonded premises shall be deemed to be production of distilled spirits for purposes of this chapter.

(c) Hours of operations

The Secretary may prescribe regulations relating to hours for distillery operations and to hours for removal of distilled spirits from distilled spirits plants; however, such regulations shall not be more restrictive, as to any operation or function, than the provisions of internal revenue law and regulations relating to such operation or function in effect on the day preceding the effective date of this section.

(d) Identification of distilled spirits

The Secretary may provide by regulations for the addition of tracer elements to distilled spirits to facilitate the enforcement of this chapter. Tracer elements to be added to distilled spirits at any distilled spirits plant under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not impair the quality of the distilled spirits for their intended use.

Sec. 5312. - Production and use of distilled spirits for experimental research

(a) Scientific institutions and colleges of learning

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, test, and store distilled spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes.

(b) Experimental distilled spirits plants

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, experimental distilled spirits plants may, at the discretion of the Secretary, be established and operated for specific and limited periods of time solely for experimentation in, or development of -

(1) sources of materials from which distilled spirits may be produced;

(2) processes by which distilled spirits may be produced or refined; or

(3) industrial uses of distilled spirits.

27 CFR

§ 19.13 Assignment of officers and supervision of operations.

(a) *General.* TTB may assign TTB officers to a distilled spirits plant and utilize controls, such as Government locks and seals, if TTB decides that those measures are necessary to effectively supervise the operations. If TTB decides that such supervision is necessary:

- (1) The proprietor must obtain approval of the plant's hours of operations from the appropriate TTB officer;
- (2) TTB may require the proprietor to submit a schedule of operations to a TTB officer; and
- (3) TTB may require the proprietor to delay any distilled spirits operation until the proprietor can conduct it in the presence of a TTB officer.

(b) *Notification of supervision.* If TTB determines that supervision of plant operations is necessary, TTB will notify the proprietor of the extent to which TTB intends to supervise those operations. If TTB determines later that TTB supervision is no longer necessary, the appropriate TTB officer will notify the proprietor of that fact.

(26 U.S.C. 5201, 5202, 5553)

§ 19.26 Alternate methods or procedures.

(a) *General.* The appropriate TTB officer may approve the use of an alternate method or procedure that varies from the regulatory requirements in this part if the proprietor shows good cause for its use and the alternate method or procedure:

- (1) Is not contrary to law;
- (2) Will not have the effect of waiving an existing regulatory requirement;
- (3) Is consistent with the purpose and effect of the method or procedure prescribed in this part;
- (4) Provides equal security to the revenue; and
- (5) Will not cause an increase in cost to the Government and will not hinder TTB's administration of this part.

(b) *Exceptions.* TTB will not authorize the use of an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(c) *Prior approvals.* Alternate methods or procedures in effect prior to April 18, 2011, which are not contrary to the regulations in this part, are preserved until renewed unless revoked by operation of law due to the enactment of law that is contrary to the alternate method or procedure.

(26 U.S.C. 5552, 5556)

§ 19.27 Application for and use of alternate method or procedure.

(a) *Application.* If a proprietor wishes to use an alternate method or procedure as described in § 19.26, the proprietor must submit a written letterhead application to the appropriate TTB officer for approval. The application must identify the method or procedure specified in the regulation, must describe the proposed alternate method or procedure in detail, and must explain why the alternate method or procedure is needed.

(b) *Approval and use.* The proprietor may not use an alternate method or procedure until the appropriate TTB officer has in writing approved the proprietor's application. During the period that the proprietor is authorized to use the alternate method or procedure, the proprietor must comply with any conditions imposed on its use by TTB. TTB may withdraw the approval to use the alternate method or procedure if TTB finds that the revenue is jeopardized, that the alternate method or procedure hinders effective administration of the laws or regulations, that the proprietor has violated any of the conditions imposed by TTB, or that the circumstances that gave rise to the need for the alternate method or procedure no longer exist.

(c) *Retention.* The proprietor must retain each alternate method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(26 U.S.C. 5552, 5556)

§ 19.28 Emergency variations from requirements.

(a) *Application.* A proprietor may request emergency approval of the use of a method or procedure relating to construction, equipment, and methods of operation that represents a variance from the requirements of this part. When a proprietor wishes to use an emergency method or procedure, the proprietor must submit a written letterhead application to the appropriate TTB officer for approval; the proprietor may send the application via regular mail, email, or facsimile transmission. The application must describe the proposed emergency method or procedure and the emergency situation it will address. For purposes of this section, an emergency is considered to exist only if it results from a weather or other natural event or from an accident or other event not involving an intentional act on the part of the proprietor.

(b) *Approval.* The appropriate TTB officer may approve in writing the use of an emergency method or procedure if the proprietor demonstrates that an emergency exists and the proposed method or procedure:

(1) Is not contrary to law;

(2) Is necessary to address the emergency situation;

(3) Will afford the same security and protection to the revenue as intended by the regulations; and

(4) Will not hinder the effective administration of this subpart.

(c) *Terms of emergency method or procedure approval and use.* (1) The proprietor may not use an emergency method or procedure until the application has been approved by TTB except when the emergency method or procedure requires immediate implementation to correct a situation that threatens life or property. In a situation involving a threat to life or property, the proprietor may implement the corrective action while concurrently notifying the appropriate TTB

officer by telephone of the action and filing the required written application. Use of the emergency method or procedure must conform to any conditions specified in the approval.

(2) The proprietor must retain the emergency method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(3) The emergency method or procedure will automatically terminate when the situation that created the emergency no longer exists. TTB may withdraw the approval to use the emergency method or procedure if TTB finds that the revenue is jeopardized, that the emergency method or procedure hinders effective administration of the laws or regulations, or that the proprietor has failed to follow any of the conditions specified in the approval. When use of the emergency method or procedure terminates, the proprietor must revert to full compliance with all applicable regulations.

(26 U.S.C. 5178, 5556)

§ 19.33 Application to establish experimental plants.

(a) *Application requirements.* Any person who wishes to establish an experimental plant for the purposes specified in § 19.32 must submit a written application to the appropriate TTB officer and obtain approval of the proposed experimental plant. The application must:

(1) State the nature, extent, and purpose of the operations to be conducted;

(2) Describe the operations and equipment;

(3) Describe the location of the plant (including the proximity to other premises or operations subject to the provisions of 26 U.S.C. chapter 51); and

(4) Describe the security measures to be provided.

(b) *Bond.* The applicant must file a bond with the application in such form and penal sum as required by the appropriate TTB officer.

(c) *Approval of application.* Before approving the application, the appropriate TTB officer may require that the applicant submit additional information if necessary. TTB will not approve the application and permit operations until the plant conforms to the specifications stated in the application and the applicant complies with provisions of 26 U.S.C. chapter 51 and with any provisions in this part that are not specifically waived.

(26 U.S.C. 5312)

§ 19.35 Application by scientific institutions and colleges of learning for experimental or research operations.

(a) *Application requirements.* A university, college, or scientific institution that wants to conduct any of the experimental or research operations mentioned in § 19.34, must submit a written application to the appropriate TTB officer and obtain approval for the proposed operations. The application may be submitted on letterhead. The application must:

(1) State the nature, extent, and purpose of the operations to be conducted;

- (2) Describe the operations and equipment;
 - (3) Describe the location where the operations will be conducted (including identification of the building or buildings, or the portions thereof to be used); and
 - (4) Describe the security measures to be provided.
- (b) *Bond.* The applicant must file a bond with the application in such form and amount as required by the appropriate TTB officer.
- (c) *Approval of application.* Before approving the application, the appropriate TTB officer may require that the applicant submit additional information. The applicant may not commence operations until authorized by the appropriate TTB officer.
- (d) *Records and reports.* Any university, college, or institution authorized to conduct experimental or research operations must maintain records of the quantities of spirits produced, received, and used each day and must make these records available for inspection by TTB officers. Universities, colleges, or institutions authorized to conduct experimental or research operations are not required to submit reports of operations to TTB unless specifically required by the appropriate TTB officer.
- (e) *Discontinuance of operations.* When operations authorized under this section are discontinued, the university, college, or institution must destroy all remaining spirits and notify the appropriate TTB officer that operations are discontinued.

(26 U.S.C. 5312)

§ 19.37 Application for industrial processes waiver.

(a) *Application for waiver.* If the producer of a nonpotable chemical mixture containing spirits, as described in § 19.36, wishes to obtain a waiver from the provisions of 26 U.S.C. chapter 51, or of this part, the producer must submit a written waiver application to the appropriate TTB officer. The application must include the following information, as applicable:

- (1) The name and address of the producer;
- (2) Chemical composition and source of the nonpotable mixture;
- (3) Approximate percentages of chemicals and spirits in the mixture;
- (4) Method of operation proposed;
- (5) Bonded premises where the mixture will be distilled; and
- (6) Any other pertinent information required by the appropriate TTB officer.

(b) *Approval of waiver.* The appropriate TTB officer may approve the waiver if it will not jeopardize the revenue and will not hinder supervision of the operations. Approval of the application may be subject to such terms and conditions, and to the furnishing of any bond, that the appropriate TTB officer determines is necessary.

(26 U.S.C. 5201)

§ 19.54 Use of distilled spirits plant premises.

(a) *General.* A person may not conduct any business or operation on the premises of a distilled spirits plant unless the business or operation is authorized by the notice of registration on file with TTB or authorized under § 19.55.

(b) *Bonded premises.* The proprietor must use the bonded premises of a distilled spirits plant exclusively for distilled spirits operations. The proprietor must store packaged spirits, cases of spirits, or portable containers of spirits in a room or building on bonded premises. TTB may approve another method of storage as an alternate method or procedure. However, the proprietor must apply for, and receive approval for another method of storage from the appropriate TTB officer in accordance with § 19.27 before using that method.

(c) *General premises.* General premises are any portion of the distilled spirits plant described in the notice of registration other than bonded premises. A person may not use the general premises of a distilled spirits plant for any operation required under the provisions of this part to be conducted on bonded premises.

(26 U.S.C. 5178)

§ 19.55 Other businesses.

(a) The appropriate TTB officer may authorize the conduct of a business other than that of a distiller, warehouseman, or processor on the premises of a distilled spirits plant if:

(1) The business is not prohibited by 26 U.S.C. 5601(a)(6);

(2) The business will not jeopardize the revenue;

(3) The business will not hinder TTB's effective administration of this part; and

(4) The business will not be contrary to law.

(b) A person who wishes to conduct another business at a distilled spirits plant must apply for such authorization in accordance with § 19.73(b) or § 19.120(b) and receive approval from the appropriate TTB officer before operating the other business. The approval will specify whether the other business may be conducted on the bonded premises or on the general premises.

(26 U.S.C. 5178)

§ 19.56 Bonded warehouses not on premises qualified for production of spirits.

(a) *Criteria for establishment.* As a general rule, if a person intends to establish a bonded warehouse, other than one established on the bonded premises of a distilled spirits plant qualified for the production of spirits or contiguous to such premises, the proposed warehouse must have a minimum capacity of 250,000 wine gallons of bulk spirits and the need for such a warehouse must be clearly shown. TTB may consider an application to establish a bonded warehouse with less capacity provided a need is clearly shown.

(b) *Application.* The applicant must submit a separate written request along with the application for registration explaining the need for the bonded warehouse. TTB may approve the application for registration if:

- (1) The proposed location for the warehouse will not jeopardize the revenue; and
- (2) The applicant provides evidence showing sufficient need for establishing such a warehouse.

(c) *Special conditions.* Based on the application and request, TTB may limit the type of operations that may be conducted at the bonded warehouse. The proprietor of a warehouse approved for a limited type of operation may not expand or change the operation to include any other type of operation without application to and approval of the appropriate TTB officer.

(26 U.S.C. 5171 and 5178)

§ 19.60 Spirits in customs custody.

A proprietor may move distilled spirits that are in customs custody across distilled spirits plant premises if the proprietor:

- (a) Submits to the appropriate TTB officer a description of the means and route of the conveyance and the areas of the distilled spirits plant across which spirits will be conveyed and receives approval from the appropriate TTB officer for the method of movement;
- (b) Does not store or allow the spirits to remain on the premises of the distilled spirits plant;
- (c) Moves the spirits expeditiously, and keeps the spirits separate and apart from other spirits on the premises; and
- (d) Provides a consent of surety on the operations or unit bond (TTB Form 5000.18) extending the terms of the bond to cover the conveyance of the spirits.

(26 U.S.C. 5201)

§ 19.71 Registration and permits in general.

Except as otherwise provided in this part, a person may only conduct operations as a distiller, warehouseman, or processor of distilled spirits on the bonded premises of a distilled spirits plant. In order to establish a distilled spirits plant, a person must register the plant with TTB and obtain an operating permit and/or a basic permit. This subpart covers the requirements for registering a plant and obtaining an operating permit under the IRC. Part 1 of this chapter covers the requirements for obtaining a basic permit under the Federal Alcohol Administration Act.

(26 U.S.C. 5171)

Requirements for Registering a Plant

§ 19.72 General requirements for registration.

- (a) *Establishment.* A person who wishes to establish a distilled spirits plant must intend to conduct operations as a distiller, as a warehouseman, or both. A person cannot establish a distilled spirits plant solely for the processing of spirits.
- (b) *Registration.* Before beginning operations as a distilled spirits plant, a person must submit an application for registration and receive approval from TTB. The following rules apply to an application for registration:

- (1) The applicant must apply for registration on form TTB F 5110.41, Registration of Distilled Spirits Plant, and submit the application to the appropriate TTB officer;
- (2) TTB will consider all written statements, affidavits, and other documents supporting the application as part of the application;
- (3) If the appropriate TTB officer determines that the original application for registration cannot be approved because it contains incomplete or incorrect information, TTB may require that the applicant file an additional TTB F 5110.41, or submit other documentation to complete or correct the original application; and
- (4) The applicant must file any additional forms or submit any other documentation within 60 days of the appropriate TTB officer's request.

(26 U.S.C. 5171, 5172)

§ 19.73 Information required in application for registration.

- (a) *General.* The application for registration on form TTB F 5110.41, Registration of Distilled Spirits Plant, must include the following information:
 - (1) The serial number;
 - (2) The name, principal business address, and location of the distilled spirits plant if different from the applicant's business address;
 - (3) The operations that will be conducted;
 - (4) The purpose for filing the application;
 - (5) A statement describing the type of business organization and the persons involved in the business in accordance with § 19.93. However, if any of this information is already on file with the appropriate TTB officer, the applicant may advise TTB that the information on file is part of the application for registration;
 - (6) A list of any operating permits, basic permits, operations bonds, withdrawal bonds, and/or unit bonds, including the amount of any bond(s) and the name of the surety on the bond;
 - (7) In the case of a corporation, a list of the offices and officers authorized by the articles of incorporation or the board of directors to sign or act on behalf of the corporation;
 - (8) A description of the plant in accordance with § 19.74;
 - (9) A list of major equipment in accordance with § 19.75;
 - (10) A statement of the maximum number of proof gallons that will be produced in the distillery during a period of 15 days, stored on the bonded premises, and in transit to the bonded premises. This statement is not required if the operations or unit bond is in the maximum amount;
 - (11) A statement that accounting records will be maintained in accordance with generally accepted accounting principles;

(12) A statement of plant security measures in accordance with § 19.76;

(13) The following information if the applicant intends to operate as a distiller:

(i) Total proof gallons of spirits that can be produced daily;

(ii) A statement of production procedures in accordance with § 19.77; and

(iii) A statement as to whether spirits will be redistilled;

(14) The following information if the applicant intends to operate as a warehouseman:

(i) A description of the storage system; and

(ii) Total amount of bulk wine gallons that can be stored; and

(15) The following information if the applicant intends to operate as a processor:

(i) A statement whether spirits will or will not be bottled, denatured, redistilled, and whether articles will be manufactured; and

(ii) A description of the storage system for spirits bottled and cased or otherwise packaged and placed in approved containers for removal from bonded premises.

(b) *Other business.* If the applicant intends to conduct any other business on the distilled spirits plant premises as authorized under § 19.55, the following information must be submitted with the application:

(1) A description of the business;

(2) A list of buildings and equipment that will be used; and

(3) A statement of the relationship of the business to the distilled spirits operations at the plant.

(c) *Additional information.* The applicant must furnish any additional information needed by TTB to determine if the application for registration should be approved.

(26 U.S.C. 5171, 5172, 6001)

§ 19.74 Description of the plant.

As required by § 19.73(a)(8), the application for registration must include a description of the distilled spirits plant. This information must:

(a) Describe each tract of land covered by distilled spirits plant;

(b) Clearly distinguish between the bonded premises and any general premises;

(c) Provide directions and distances in enough detail to enable the appropriate TTB officer to readily determine the boundaries of the plant;

(d) Describe each building and outside tank that will be used for production, storage, and processing of spirits and for denaturing spirits, articles, or wines. The description must include the location, size, construction, and arrangement with reference to each by a designated number or letter; and

(e) Specify when only a room or floor of a building will be used for plant operations and provide the location and description of the building, floor, and room.

(26 U.S.C. 5172)

§ 19.75 Major equipment.

As required by § 19.73(a)(9), the application for registration must include a list of the major plant equipment. If the equipment is set up and used for the production, storage, or processing of distilled spirits, wine, denatured spirits, or articles, the list must provide the following information:

(a) The serial number and capacity of each tank in the plant. The list does not need to include any bulk containers having a capacity of less than 101 wine gallons on the plant premises if those containers do not meet the criteria of a tank under § 19.182 (perks, small totes, etc.);

(b) The serial number, kind, capacity, and intended use of each still in the plant. The capacity is the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or for column stills a statement of the diameter of the base and number of plates; and

(c) The serial number of each condenser.

(26 U.S.C. 5172, 5179)

§ 19.76 Statement of plant security.

As required by § 19.73(a)(12), the application for registration must include a statement of plant security. This statement must include the following information:

(a) A general description of plant security, including methods used to secure buildings or plant operations located within a portion of a building and outdoor tanks;

(b) A statement regarding the use of guard personnel;

(c) A statement regarding the use of any electronic or mechanical alarm system;

(d) A statement certifying that locks used will meet the requirements of § 19.192(f); and

(e) A list of persons, by their position and title, who have the responsibility for the custody and access to keys for the locks.

(26 U.S.C. 5171, 5172)

§ 19.77 Statement of production procedure.

(a) As required by § 19.73(a)(13)(ii), the application for registration must include a statement of the step-by-step production procedure used to produce spirits from an original source. The statement must begin with the treating, mashing, or fermenting of the raw materials or substances

and continue through each step of the distilling, purifying, and refining procedure to the production gauge. The statement must include the kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits that will be produced.

(b) If the applicant intends to redistill spirits in the production account, the applicant must submit and receive approval for such redistillation on form TTB F 5110.38, Formula for Distilled Spirits under the Federal Alcohol Administration Act.

(26 U.S.C. 5172, 5201, 5222, 5223, 5555)

§ 19.78 Power of attorney.

An applicant or proprietor of a distilled spirits plant must execute and submit to the appropriate TTB officer form TTB F 5000.8, Power of Attorney, for each person authorized to sign or to act on behalf of the applicant or proprietor unless the authority has been granted in the application for registration.

(26 U.S.C. 5172)

§ 19.79 Registry of stills.

Section 29.55 of this chapter requires that every person having possession, custody, or control of a still or distilling apparatus must register the still or distilling apparatus. When a person lists a still or distilling apparatus with the application for registration as required by § 19.75(b) and receives approval of the registration, that person has fulfilled the requirement to register the still or distilling apparatus. See § 29.55 of this chapter for additional provisions regarding stills and distilling apparatus.

(26 U.S.C. 5172, 5179)

§ 19.112 General rules for amending a registration.

If there is a change in any of the information in the proprietor's current, approved notice of registration, the proprietor must amend the registration within 30 days of the change unless another time period is specified in this subpart. To amend a registration the proprietor must submit in writing to the appropriate TTB officer any information necessary to make the registration file current and accurate.

(a) *TTB F 5110.41.* Except when a letterhead application or letterhead notice procedure is allowed under this subpart, the proprietor must submit an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, for changes that affect the registration. If the changes affect only parts or pages of the registration the proprietor only needs to submit the necessary pages or information that will make the registration file current.

(b) *Letterhead applications.* For certain changes specified in this subpart the proprietor may submit a letterhead application for a change instead of an amended TTB F 5110.41. The letterhead application must identify the distilled spirits plant to which the change applies and clearly identify the change. Any change is subject to TTB approval. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.41 if administrative difficulties occur as a result of the letterhead application.

(c) *Letterhead notices.* For certain changes specified in this subpart only a letterhead notice is required. The letterhead notice must identify the distilled spirits plant to which the change applies and clearly identify the change. A letterhead notice does not require approval by TTB. The appropriate TTB officer may, at any time, require that the proprietor submit an amended application on TTB F 5110.41 if administrative difficulties occur as a result of the letterhead notice.

(26 U.S.C. 5171, 5172)

§ 19.113 Change in name of proprietor.

If the name of the of the proprietor changes, the proprietor may not conduct operations under the new name before TTB approves the amended registration. The proprietor must file either an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead application to reflect the change. However, the proprietor does not have to file a new bond or consent of surety.

(26 U.S.C. 5172, 5271)

§ 19.114 Changes in stockholders or persons with interest.

The proprietor must notify TTB of any changes in the list of stockholders or persons with interest that was filed with TTB as required by § 19.93. If the change results in a change of control, the proprietor must file form TTB F 5110.41, Registration of Distilled Spirits Plant, within 30 days of the change. If the change does not cause a change of control, the proprietor:

- (a) May file a letterhead notice to amend the registration;
- (b) May file the amended notice on May 1 of each year rather than within 30 days of the change, or on any other date that the appropriate TTB Officer may approve; and
- (c) Must incorporate all changes submitted by letterhead notice in the next TTB F 5110.41 filed.

(26 U.S.C. 5172, 5271)

§ 19.115 Change in officers, directors, members, or managers

- (a) *General.* If there is a change in the list of officers, directors, members or managers that the proprietor filed as required by § 19.93 the following rules apply:
 - (1) The proprietor must file an amended form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead notice to reflect the change;
 - (2) The proprietor must provide the name and address of each new officer, director, member or manager; and
 - (3) The proprietor must incorporate all changes submitted by letterhead notice in the next TTB F 5110.41 filed.

(b) *Waiver.* The appropriate TTB officer may waive the requirement to amend the registration if the change only relates to corporate officers listed on the original or current registration who are no longer connected with the operations covered by the registration.

(26 U.S.C. 5171, 5172)

§ 19.116 Change in proprietorship.

(a) *General.* If there is a change in proprietorship at a distilled spirits plant, the following requirements apply to the outgoing proprietor and to the incoming (successor) proprietor.

(1) *Outgoing proprietor.* An outgoing proprietor must comply with the requirements of § 19.147. An outgoing proprietor may transfer spirits to its successor in accordance with § 19.141.

(2) *Incoming proprietor.* A successor to the proprietorship of a plant that holds a registration:

(i) Must file form TTB F 5110.41, Registration of Distilled Spirits Plant, and receive from TTB an approved notice of registration of the plant;

(ii) Must file the required bonds; and

(iii) May adopt the approved formulas of its predecessor in accordance with §§ 5.28 and 20.63 of this chapter.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, the successor must comply with the provisions of paragraph (a)(2) of this section. The following rules also apply in this case:

(1) The fiduciary may furnish a consent of surety to extend the terms of the predecessor's bond instead of filing a new bond;

(2) The fiduciary may incorporate by reference in the application for registration on TTB F 5110.41 any information contained in the predecessor's application for registration that is still current;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document showing the successor's qualification as fiduciary; and

(4) The effective date of the qualifying documents that the fiduciary files will be the date of the court order, the date specified in the order whereby the fiduciary assumes control, or if there is no court order, the date that the fiduciary assumed control.

(26 U.S.C. 5172)

§ 19.117 Partnerships.

(a) If there is a death or insolvency of a partner in the business registered under this part, the surviving partner or partners may continue to operate under the notice of registration if:

(1) The partnership is not terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have exclusive right to the control and possession of the partnership assets for purposes of liquidation and settlement; and

- (3) A consent of surety is filed where the surety and the surviving partner or partners agree to remain liable on the operations or unit bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file as an incoming proprietor and receive an approved notice of registration of the plant in accordance with § 19.116(a).

(26 U.S.C. 5172)

§ 19.118 Change in location.

(a) If the location of the plant changes, the proprietor must:

- (1) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration;
- (2) File a new bond or a consent of surety on form TTB F 5000.18; and
- (3) Not begin operations at the new location prior to approval of the amended registration.

(b) If there is a temporary change of delivery address within a plant with no change in plant location, the proprietor may file a letterhead notice to temporarily amend the registration.

(26 U.S.C. 5172, 5173, 5271)

§ 19.119 Change in premises.

If the proprietor intends to extend or curtail any part of the plant premises, except under alternate operations that are covered by §§ 19.142 and 19.143, the proprietor must file form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration. The proprietor must not extend or curtail any premises or equipment before the amended registration is approved.

(26 U.S.C. 5172)

§ 19.120 Change in operations.

(a) If the proprietor wishes to conduct additional operations involving spirits, other than those approved on the current registration, the proprietor must:

- (1) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration;
and
- (2) Not engage in the additional operations prior to approval of the amended registration.

(b) If the proprietor wishes to engage in another business that is authorized under § 19.55 the proprietor must:

- (1) File TTB F 5110.41 to amend the registration;
- (2) Include the information required under § 19.73(b); and
- (3) Not engage in the other business until approval of the amended registration is received.

(26 U.S.C. 5171, 5172, 5271)

§ 19.121 Change in production procedure.

If the proprietor plans to produce a new product or make a change to the production procedure that will affect the designation of the product or substantially affect the character of the product, the proprietor must:

- (a) File form TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration;
- (b) Provide a new statement of production procedure as described in § 19.77; and
- (c) Receive approval of the amended registration before implementing the change in the production procedure.

(26 U.S.C. 5172)

§ 19.122 Change in construction or use of buildings and equipment.

(a) The proprietor must submit a letterhead notice before making any material change in the construction or use of buildings or equipment at the plant other than changes covered by § 19.119, § 19.142 or § 19.143. The proprietor must:

- (1) Describe the proposed change in detail;
- (2) Keep a copy of the letterhead notice on file with the current notice of registration; and
- (3) Incorporate the change in the next amendment to the registration submitted on form TTB F 5110.41, Registration of Distilled Spirits Plant, unless the appropriate TTB officer requires immediate submission of an amended TTB F 5110.41.

(b) The proprietor may make emergency changes in construction or use of buildings and equipment without prior letterhead notice. However, the proprietor must promptly report any emergency change to the appropriate TTB officer.

(26 U.S.C. 5172)

§ 19.123 Statement of plant security.

If the proprietor makes changes to the personnel listed, or procedures contained in, the statement of plant security filed under § 19.76, the proprietor must:

- (a) File a form TTB F 5110.41, Registration of Distilled Spirits Plant, or a letterhead application to amend the registration, in the case of any change in the description of plant security, employment of guard personnel, use of electronic or mechanical alarm system, or certification of required locks required under § 19.76(a) through (d);
- (b) File a letterhead notice for any change in personnel who have custody and access to keys for the required locks as provided under § 19.76(e); and

(c) Incorporate any changes filed by letterhead notice in the next amendment to the registration on TTB F 5110.41 submitted, unless the appropriate TTB officer requires an immediate submission of TTB F 5110.41.

(26 U.S.C. 5171, 5172)

§ 19.170 Termination of bonds.

Liability under operations bonds, withdrawal bonds, and unit bonds may be terminated for future withdrawals, future production, or future deposits as set forth below:

(a) *On application by the surety.* A surety may terminate a bond by filing a notice as provided in § 19.171;

(b) *By replacement of the bond.* A principal may terminate an existing bond by replacing it with a superseding bond approved by TTB;

(c) *By discontinuing withdrawals.* A principal may terminate a withdrawal bond by notifying TTB that the principal has stopped making withdrawals covered by the bond, if the bond was filed solely as a withdrawal bond; or

(d) *By discontinuing the business.* A principal may terminate a bond by notifying TTB that the principal has discontinued business.

(26 U.S.C. 5173)

§ 19.171 Surety notice of relief from bond liability.

(a) *Notice to principal.* A surety on a bond may, at any time, notify the principal in writing that the surety desires to be relieved of liability under the bond.

(b) *Notice to TTB.* A surety on a bond may, at any time, notify the appropriate TTB officer in writing that the surety desires to be relieved of liability under the bond. The notice must specify the date after which the surety desires to be relieved of liability. In the case of a withdrawal bond, the date specified in the notice must be at least ten days after the notice is received by the appropriate TTB officer. In the case of an operations bond or unit bond, the date specified in the notice must be at least 90 days after the notice is received by the appropriate TTB officer. When a surety files a termination notice with TTB, the surety must include either an acknowledgement from the principal that the principal is aware that the surety is terminating the bond or proof that the surety has served the principal with notice of its intent to terminate the bond.

(c) *Effect of notice.* The bond coverage will end as of close of business on the date specified in the notice, provided the surety timely filed a proper and complete termination notice, and the surety does not withdraw its termination notice in writing prior to the termination date. The surety will be released from future liability under the bond to the extent set forth in § 19.172.

(26 U.S.C. 5173, 5175, 5176)

§ 19.172 Relief of surety from bond liability.

A surety that has provided proper notice under § 19.171 will be relieved from liability under the bond in question as set forth below:

(a) *Operations or unit bond.* When a superseding bond is submitted, the surety will be relieved of future liability related to production and deposits that take place after the effective date of the superseding bond. However, the surety remains liable for the tax on all distilled spirits or wines produced, or for other liabilities incurred, during the term of the bond. Further, if a superseding bond is not submitted, the surety will remain liable under the bond for all spirits or wines that are on hand or in transit to the bonded premises or bonded wine cellar on the date specified in the notice. The liability of the surety will continue until all such spirits or wines have been lawfully disposed of, or until a new bond has been submitted by the principal covering the spirits or wine.

(b) *Withdrawal or unit bonds.* The surety will be relieved from liability for withdrawals made after the date specified in the notice, or upon the effective date of a new bond if one is given.

(26 U.S.C. 5173, 5176)

sed. At any time prior to the release of the securities, the appropriate TTB officer may extend the date of release for any additional length of time deemed necessary.

(31 U.S.C. 9301, 9303)

§ 19.192 Security.

(a) *General.* The proprietor of a distilled spirits plant must provide adequate security measures at the plant in order to protect the revenue.

(b) *Buildings.* The buildings, rooms, and partitions must be constructed of substantial materials. Doors, windows, or any other openings to the building must be secured or fastened during times when distilled spirits plant operations are not being conducted.

(c) *Outdoor tanks.* Outdoor tanks containing spirits, denatured spirits, or wine must be individually locked or locked within an enclosure when they are not in use.

(d) *Indoor tanks.* Indoor tanks containing spirits, denatured spirits, or wines, or the rooms or buildings in which such tanks are housed, must be equipped so that they may be secured.

(e) *Approved locks.* Locks meeting the specifications prescribed in paragraph (f) of this section must be used to secure:

- (1) Outdoor tanks used to store spirits, or an enclosure around such tanks;
- (2) Indoor tanks used to store spirits, or the door from which access may be gained from the outside to the rooms or buildings in which such tanks are housed; and
- (3) Any doors from which access may be gained from the outside to rooms or buildings containing spirits stored in portable bulk containers.

(f) *Specifications for locks.* Locks meeting the specifications in this section or other locks that have been approved for use by the appropriate TTB officer are approved locks for the purpose of 26 U.S.C. 5682.

(1) *General.* The following are the specifications for approved locks:

- (i) A corresponding serial number on the lock and on the key, except for master key locking systems;
- (ii) A case hardened shackle at least one-fourth inch in diameter, with heel and toe locking;
 - (iii) A body width of at least 2 inches;
- (iv) A captured key feature (the key may not be removed while the shackle is unlocked);
 - (v) A tumbler with at least 5 pins; and
 - (vi) A lock and key containing no biting data.

(2) *Other approved locks.* If the proprietor wishes to use locks of an unusual design, which do not meet the specifications in paragraph (f)(1) of this section, the proprietor must submit an example or prototype of the lock to the appropriate TTB officer, with a request that the lock be approved for use. The appropriate TTB officer will evaluate the lock and determine whether the lock should be approved for use.

(3) *Master key systems.* Master key locking systems using approved locks may be used at the option of the proprietor.

(g) *Additional security.* Whenever the appropriate TTB officer finds that construction, arrangement, equipment, or protection is inadequate, additional security (such as fences, flood lights, alarm systems, and guard services) must be provided or changes in construction, arrangement, or equipment must be made to the extent necessary to protect the revenue.

(26 U.S.C. 5178, 5202)

§ 19.261 Scope.

This subpart covers the various types of claims that a proprietor may file and includes provisions regarding the following:

- (a) General requirements for filing claims;
- (b) Specific requirements for filing certain types of claims; and
- (c) Remission, abatement, credit and refund of tax.

(26 U.S.C. 5008, 5215, 6065)

§ 19.281 Scope.

This subpart covers gauging, which is the determination of the quantity and the proof of distilled spirits. Topics covered in this subpart include: The general requirements for gauging; when gauges are required at distilled spirits plants; and special rules that apply to the gauges performed at distilled spirits plants. For additional requirements and procedures governing gauging, see part 30 of this chapter, Gauging Manual.

§ 19.352 Bottling tanks.

Generally, a proprietor must bottle all spirits from tanks that are listed in the notice of registration and have been certified as accurate. However, if a proprietor files a letterhead application and shows the need to do so, the appropriate TTB officer may authorize bottling from original packages, tank trucks, totes or special containers where it is not practical to use a bottling tank. In addition, a proprietor may bottle liqueurs directly from a tank truck or tote without applying for permission to TTB if the liqueurs are gauged prior to unloading and piped directly to the bottling line.

(26 U.S.C. 5201)

§ 19.372 Physical inventories of bottled and packaged spirits.

(a) *Physical inventories.* Generally, a proprietor must take physical inventories of bottled and packaged spirits in the processing account for the return periods ending June 30 and December 31, and at any other time that the appropriate TTB officer requires. Physical inventories may be taken within a period of a few days before or after June 30 or December 31 if:

- (1) The period does not include more than one complete weekend; and
- (2) Necessary adjustments are made to the inventory record to reflect the actual quantities on hand June 30 or December 31.

(b) *Alternate dates.* 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:

- (1) Coincide with the end of a return period, and
- (2) Are approximately 6 months apart.

(c) *Waiver of physical inventory.* A proprietor may file an application to take only one physical inventory per year. The appropriate TTB officer may approve the application if she or he finds that only one physical inventory per year will be sufficient to protect the revenue. However, the requirement for the waived inventory may be reimposed if it becomes necessary for protection of the revenue.

(d) *Notification of physical inventory.* A proprietor must notify the appropriate TTB officer at least 5 business days in advance of the date and time of a physical inventory of bottled or packaged spirits. TTB officers may be assigned to verify or supervise physical inventories taken under the provisions of this section.

(26 U.S.C. 5201)

§ 19.384 Adding denaturants to spirits.

(a) When making denatured spirits, a proprietor must mix the denaturants and spirits only in packages, tanks or bulk conveyances and only on bonded premises. A proprietor must thoroughly mix the denaturants with the spirits to ensure that all of the spirits are effectively denatured.

(b) If a proprietor wishes to use another method of mixing denaturants and spirits not prescribed in this subpart, the proprietor must submit to the appropriate TTB officer a written application for approval of the alternative method in accordance with § 19.27. TTB may require

that the proprietor submit additional information, including a flow diagram or other graphic representation of the alternative method, in support of the application.

(26 U.S.C. 5242)

§ 19.388 Storing denatured spirits.

(a) *Bonded storage.* A proprietor must store on bonded premises all denatured spirits produced, received in bond, or received by return to bond.

(b) *Storage methods.* A proprietor may store denatured spirits on bonded premises in any appropriate tank, package or container authorized for filling with denatured spirits. The proprietor must store containers of denatured spirits in a manner that allows for easy inspection and inventory of the denatured spirits by TTB officers. A proprietor must store portable containers of denatured spirits within a building or structure that protects the spirits from unauthorized access. A proprietor may apply to the appropriate TTB officer for authorization to store containers of denatured spirits in an alternative manner in accordance with § 19.27.

(c) *Tank Records.* A proprietor must maintain a record for tanks in which denatured spirits are stored in accordance with § 19.606.

(26 U.S.C. 5201)

§ 19.392 Converting denatured alcohol to a different formula.

(a) *General.* A proprietor may convert specially denatured alcohol (SDA) from one formula of SDA to another formula of SDA if the resultant mixture contains only alcohol and the denaturants listed for an approved SDA formula and in the correct concentrations, as set forth in part 21 of this chapter. Such converted SDA may be used only as authorized in part 21 of this chapter.

(b) *Converting SDA to SDA Formula No. 1* —(1) *All SDA other than SDA Formulas No. 3-A and No. 30.* A proprietor may convert any SDA, other than SDA produced under Formulas No. 3-A and No. 30, into SDA Formula No. 1 by adding methyl alcohol and any one of the other alternative denaturants listed in § 21.32 of this chapter in accordance with the formulation prescribed in that section.

(2) *SDA Formulas No. 3-A and No. 30.* SDA Formulas No. 3-A and No. 30 specify more methyl alcohol than is specified for SDA Formula No. 1. Therefore, in order to convert SDA produced under Formulas No. 3-A or No. 30 into SDA under Formula No. 1, a proprietor must first add a sufficient amount of ethyl alcohol to the SDA in question to bring the methyl alcohol content to the proportion prescribed for SDA Formula No. 1. After adjusting the proportion of methyl alcohol, the proprietor must add the specified amount of any one of the other alternative denaturants listed in § 21.32 of this chapter.

(c) *Converting SDA to SDA Formula No. 29.* A proprietor may convert any SDA into SDA Formula No. 29 by adding the amount of acetaldehyde or ethyl acetate specified in § 21.56 of this chapter. However, due to the presence of other denaturants from the original formula, SDA under Formula No. 29 that has been converted from another SDA formula may be used only as authorized in § 21.56(b) but not in the manufacture of vinegar, drugs or medicinal chemicals, and the conditions governing use provided in § 21.56(c) will apply.

(d) *Other conversions of SDA.* If a proprietor wishes to make an SDA formula conversion other than one authorized in paragraph (a), (b), or (c) of this section, the proprietor must obtain approval from the appropriate TTB officer prior to the conversion.

(e) *Conversions to completely denatured alcohol.* A proprietor may convert any SDA from a formula that does not contain methyl alcohol or wood alcohol to any one of the completely denatured alcohol (CDA) formulas prescribed in subpart C of part 21 of this chapter, by adding the denaturants specified for CDA.

(26 U.S.C. 5242)

§ 19.420 Withdrawals of spirits without payment of tax for experimental or research use.

A scientific university, college of learning, or institution of scientific research qualified under § 19.35 may withdraw spirits from bonded premises without payment of tax for experimental or research use. In order to withdraw a specific quantity of spirits for experimental or research use, the qualified institution must file a letterhead application with, and receive written approval from, the appropriate TTB officer.

(26 U.S.C. 5312)

§ 19.434 Spirits withdrawn from bonded premises.

(a) *Laboratory samples.* A proprietor may withdraw spirits without payment of tax, or may withdraw wine spirits or brandy free of tax, to the proprietor's laboratory, to the laboratory of an affiliated or subsidiary corporation, or, if approved by the appropriate TTB officer, to a recognized commercial laboratory. The samples must be used only for testing or analysis to determine the quality or character of the finished product and must be withdrawn in the minimum amounts necessary for the purpose.

(b) *Customer samples.* If a bona fide purchase agreement exists that is contingent upon quality approval, a proprietor may furnish to a prospective customer a sample of spirits not exceeding 1 liter for quality testing. A proprietor may furnish a sample not to exceed 1 liter 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.* A proprietor may withdraw spirits without payment of tax for research or development testing, for testing of processes, systems, or materials, or for the testing of equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn must be limited to the amount reasonably necessary to conduct the test. If the test is to be conducted by someone other than the proprietor, the proprietor must obtain a written statement, executed by the consignee, agreeing to maintain records of the receipt, use, and disposition of all spirits received for purposes of the test. The statement must specify that records of operations will be available during regular business hours for inspection by TTB officers.

(d) *Conditions.* The following conditions apply to the withdrawal and testing of samples under this section:

- (1) The spirits may not be used for consumer testing or other market analysis;
- (2) The proprietor must maintain the records specified in § 19.616; and

(3) Remnants or residues of spirits not used during testing must be destroyed or returned to the bonded premises of the proprietor.

(e) *Liability for tax.* The proprietor must pay the tax on any samples of spirits withdrawn, used, or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost before use for a purpose authorized under this section, the proprietor must pay the tax or must file a claim for remission of tax liability in accordance with § 19.263.

(26 U.S.C. 5214, 5173)

§ 19.441 Securing of conveyances.

(a) *Construction for securing.* When the securing of a conveyance is required by this part, the conveyance must be constructed so that all openings, including valves, may be closed and secured.

(b) *Approval of securing devices.* Seals, locks or other devices on conveyances used to transport taxpaid spirits, denatured spirits transferred in bond, or denatured spirits withdrawn free of tax do not require approval by TTB. On the other hand, all seals, locks, or devices used on conveyances in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, require approval by the appropriate TTB officer before use. However, cap seals at least three-fourths of an inch in diameter, ball-strap-type (railroad) seals with a strap at least five-sixteenths of an inch wide, and locking security cable with at least a $\frac{1}{16}$ -inch cable may be used on conveyances without approval by TTB. Such seals must:

- (1) Be made of durable materials;
- (2) Bear the plant registration number or the name, or readily recognizable abbreviation of the name, of the proprietor;
- (3) Bear a serial number, including letter prefixes or suffixes, which will not be repeated within the following 6-month period;
- (4) Be durably and legibly marked; and
- (5) Be constructed to show evidence of tampering.

(c) *Furnishing and affixing securing devices.* The proprietor must furnish and affix any seals, locks or other devices used on conveyances. However, TTB may require any conveyance in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, to be secured by a device furnished by TTB and affixed by a TTB officer. The securing of a conveyance will be done:

- (1) As soon as the conveyance is loaded for shipment; and
- (2) In such a manner that access to the contents of the conveyance cannot be gained without leaving evidence of tampering.

(26 U.S.C. 5206, 5682)

§ 19.459 Voluntary destruction.

(a) *General.* A proprietor may voluntarily destroy spirits, denatured spirits, articles, or wines on bonded premises as provided in this section. There is no tax liability on spirits, denatured spirits, articles, or wines destroyed in accordance with this section.

(b) *Wine notice.* A proprietor may destroy wine held on bonded premises only after the proprietor has filed a notice of intent to destroy 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 the filing of the notice.

(c) *Gauging.* A proprietor must gauge all spirits, denatured spirits, articles, or wines to be destroyed. The proprietor may establish the gauge of spirits in bottles on the basis of legible case markings and label information in accordance with § 19.286. The proprietor must individually count bottles in partial cases.

(d) *Destruction off bonded premises.* If a proprietor intends to remove spirits, denatured spirits, articles, or wines from bonded premises in order to destroy them at a location off bonded premises, the proprietor must file a consent of surety to cover the removal. When the destruction takes place off plant premises, the proprietor must comply with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor must record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.617.

(26 U.S.C. 5008, 5370)

§ 19.462 Determination of losses in bond.

(a) *Times for determining losses.* A proprietor must determine at any of the following times whether a loss of spirits, denatured spirits, or wines has occurred:

(1) Each time a tank or bulk conveyance is emptied;

(2) Upon discovery of an accident or an unusual variation in a gauge; and

(3) When required to take a physical inventory.

(b) *Losses from theft, tampering, or unauthorized voluntary destruction.* Whenever any spirits, denatured spirits, or wines are lost or destroyed in bond, whether by theft, tampering, or unauthorized voluntary destruction, the proprietor may elect voluntarily to pay the tax on the quantity lost. If the proprietor does not elect to pay the tax, the proprietor must promptly report the loss or destruction to the appropriate TTB officer. TTB may require that the proprietor file any claim for relief from the tax in accordance with § 19.263.

(c) *Missing packages.* When a proprietor cannot locate or otherwise account for any packages of spirits, denatured spirits, or wine recorded as deposited on bonded premises, the proprietor must promptly report that fact to the appropriate TTB officer. In such case the proprietor must either pay the tax on the lost spirits, denatured spirits, or wines or file a claim for relief from the tax in accordance with § 19.263.

(d) *Excessive in-transit losses.* A proprietor must promptly report excessive in-transit losses to the appropriate TTB officer. As a general rule, when spirits, denatured spirits, or wines are received in bond in bulk conveyances TTB will consider as excessive a loss that exceeds 1 percent of the quantity consigned. However, in the case of transcontinental transfers of wine in

bond, TTB will consider as excessive only a loss in excess of 2 percent of the quantity of wine consigned.

(e) *Excessive storage losses.* A proprietor must pay the tax on excessive storage account losses of spirits unless the proprietor files a claim for remission in accordance with § 19.263 and TTB allows the claim under § 19.268. TTB will consider a storage account loss as excessive when the quantity of spirits lost during a calendar quarter from all storage tanks and stored bulk conveyances exceeds 1.5 percent of the total quantity contained in the tanks and stored bulk conveyances during the calendar quarter.

(26 U.S.C. 5008, 5370)

§ 19.487 Kind of spirits.

(a) *Designation.* The designations of kind of spirits required for packages filled on bonded premises must be consistent with the classes and types of spirits set forth in part 5 of this chapter subject to the following exceptions or conditions:

(1) A proprietor may designate as "Alcohol" spirits distilled at more than 160 proof, which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, and which are substantially neutral in character. When alcohol so designated is withdrawn on determination of tax, the designation must consist of the word "Alcohol" preceded or followed by a word or phrase that describes the material from which the alcohol was produced;

(2) The designation for vodka, neutral spirits, or gin must include a word or phrase that describes the material from which the spirits were produced;

(3) A proprietor may designate as "Spirits", preceded or followed by a word or phrase that describes the material from which the spirits were produced, those distilled spirits that are distilled at less than 190 proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin. However, the proprietor may not designate such spirits as "Spirits grain" or "Grain spirits";

(4) A proprietor must designate spirits distilled from fruit at or above 190 proof, if intended for use in wine production, as "Neutral Spirits—Fruit", preceded or followed by the name of the fruit from which the spirits were produced;

(5) A proprietor may designate as "Whisky" spirits distilled at not more than 160 proof from a fermented mash of not less than 51 percent rye, corn, wheat, malted barley, or malted rye grain, packaged in reused cooperage, provided that the designation is further qualified with the words "Distilled from rye mash" (or bourbon, wheat, malt, or rye malt mash, as the case may be). However, spirits designated as "Whisky" must, if distilled from a fermented mash of not less than 80 percent corn, carry the designation "Corn Whisky."

(b) *Change of designation.* After written application to, and approval of, the appropriate TTB officer, a proprietor may at any time before their withdrawal from bonded premises, change the original designation for spirits to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If a proprietor proposes to produce spirits for which a designation has not been prescribed in this section or in part 5 of this chapter, the proprietor must first make written application to the appropriate TTB officer for a designation for such spirits, and the proprietor must then designate the spirits accordingly.

(d) *Spirits for nonindustrial use.* A proprietor may not treat the provisions of this section as constituting authorization to apply designations to spirits withdrawn for nonindustrial use if those designations do not conform to the requirements of part 5 of this chapter.

(26 U.S.C. 5206)