lost will be assessed, or liability as-
serted against the bond covering the
shipment, as the case may be.
(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as
amended (26 U.S.C. 5370))

(25 FR 5734, June 23, 1960. Redesignated at 40
FR 16835, Apr. 15, 1975, and amended by T.D.
ATF–48, 44 FR 55854, Sept. 28, 1979; T.D. ATF–
62, 44 FR 71726, Dec. 11, 1979; T.D. TTB–8, 69
FR 3834, Jan. 27, 2004)

§ 28.317 Filing of claims.

Claims, for remission of tax on the
wine under § 28.315, shall be filed on
Form 2635 (5620.8), in duplicate, and
shall set forth the following:
(a) The name, address, and capacity
of the claimant;
(b) The name, registry number, and
location of the bonded wine cellar from
which the wine was withdrawn;
(c) The date, penal sum, and form
number of the bond under which with-
drawal and shipment was made;
(d) Identification (including serial
numbers, if any) and location of the
container or containers from which the
wine was lost;
(e) The quantity of wine lost from
each container, and the total quantity
of wine covered by the claim;
(f) The total amount of tax for which
the claim is filed;
(g) The date of the loss (or, if not
known, date of discovery), the cause
thereof, and all the facts relative
thereto;
(h) Name of the carrier;
(i) If lost by theft, the facts estab-
lishing that the loss did not occur as
the result of any connivance, collusion,
fraud, or negligence on the part of the
exporter, owner, consignor, consignee,
bailee, or carrier, or the agents or em-
ployees of any of them; and
(j) Whether the claimant is indem-
nified or recompensed in respect of the
loss, and, if so, the amount and nature of
such indemnity or recompense and the actual value
of the wine, less the tax.

The claim shall be signed by the ex-
porter or his authorized agent under
the penalties of perjury, and shall be
supported (whenever possible) by affi-
vavits of persons having personal
knowledge of the loss. The appropriate
TTB officer may require such further
evidence as he deems necessary.

6065, 5370, 5371)

(25 FR 5734, June 23, 1960. Redesignated at 40
FR 16835, Apr. 15, 1975, and amended by T.D.
TTB–8, 69 FR 3834, Jan. 27, 2004)

§ 28.318 Action on claim.

Action on claims filed under § 28.317
shall be, insofar as applicable, in ac-
cordance with the procedure prescribed
in § 28.304.

(72 Stat. 1381; 26 U.S.C. 5370)

(25 FR 5734, June 23, 1960. Redesignated at 40
FR 16835, Apr. 15, 1975, and amended by T.D.
TTB–8, 69 FR 3834, Jan. 27, 2004)

beer and beer concentrate

§ 28.320 Loss of beer and beer con-
centrate in transit.

(a) Losses not requiring inspection.
When, on receipt by the appropriate
TTB officer of Form 1689 (5130.12) from
the officer required to certify it under
the provisions of subpart N of this part,
it is disclosed that there has been a
loss of beer or beer concentrate after
removal from the brewery without pay-
ment of tax while in transit to the port
of export, the vessel or aircraft, or the
foreign-trade zone, and the report of
the certifying officer shows that the
loss was a normal one caused by cas-
ualty, leakage, or spillage, the ap-
propriate TTB officer will allow the loss.

(b) Losses requiring inspection. When it
is disclosed that the loss of beer or beer
concentrate is large or unusual, the ap-
propriate TTB officer will conduct an
investigation of the loss. When it is
disclosed that the loss in transit has
occurred by reason of casualty, leakage
or spillage, credit for the loss will be
allowed. When the investigation dis-
closes evidence indicating that the loss
resulted from theft or from fraud, the
appropriate TTB officer will afford the
brewer opportunity to submit a written
explanation with respect to the causes
of the loss before taking further action.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as
amended, 1334, as amended, 1335, as amended
(26 U.S.C. 5051, 5053, 5056))

[T.D. ATF–224, 51 FR 7700, Mar. 5, 1986, as
amended by T.D. TTB–8, 69 FR 3835, Jan. 27,
2004]