

§ 25.301 Photographic copies of records.

(a) *General.* Brewers may record, copy, or reproduce records required by this part. Brewers may use any process which accurately reproduces the original record and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as through it were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the brewer, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**Subpart A—Scope of Regulations**

Sec.

- 26.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.
- 26.2 Forms prescribed.
- 26.3 Delegations of the Administrator.

Subpart B—Definitions

- 26.11 Meaning of terms.

Subpart C [Reserved]**Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands**

- 26.30 Excise taxes.
- 26.31 Formula.

Subpart Cb—Products Coming into the United States From Puerto Rico

- 26.35 Taxable status.

- 26.36 Products exempt from tax.
- 26.36a–26.36b [Reserved]
- 26.36c Shipments of bulk distilled spirits to the United States without payment of tax.
- 26.37 Alcohol and Tobacco Tax and Trade Bureau Officers.
- 26.38 Containers of distilled spirits.
- 26.39 Labels.
- 26.40 Marking containers of distilled spirits.
- 26.41 Destruction of marks and brands.
- 26.43 Samples.

DEALER REGISTRATION AND RECORDKEEPING

- 26.44 Liquor dealer registration and record-keeping.
- 26.45 Warehouse receipts covering distilled spirits.
- 26.46–26.47 [Reserved]

Subpart D—Formulas for Products From Puerto Rico

- 26.50 Formulas for liquors.
- 26.50a Verification of eligible flavors.
- 26.51 Formulas for articles, eligible articles, and products manufactured with denatured spirits.
- 26.52 Still wines containing carbon dioxide.
- 26.53 Changes of formulas.
- 26.54 Filing and disposition of formulas.
- 26.55 Previously approved formulas.

Subpart E—Taxpayment of Liquors and Articles in Puerto Rico**BONDS**

- 26.61 General.
- 26.62 Corporate surety.
- 26.62a Filing of powers of attorney.
- 26.62b Execution of powers of attorney.
- 26.63 Deposit of securities or cash (including cash equivalents) in lieu of corporate surety.
- 26.64 Consents of surety.
- 26.65 Authority to approve bonds and consents of surety.
- 26.66 Bond, TTB Form 5110.50—Distilled spirits.
- 26.67 Bond, TTB Form 5120.32—Wine.
- 26.68 Bond, TTB Form 5130.16—Beer.
- 26.68a Bond account.
- 26.69 Strengthening bonds.
- 26.70 Superseding bonds and new bonds for previously exempt persons.
- 26.70a Notice of approval of bonds.

TERMINATION OF BONDS

- 26.71 Termination of bonds.
- 26.72 Application of surety for relief from bond.
- 26.73 Relief of surety from bond.
- 26.74 Release of pledged securities or cash (including cash equivalents).
- 26.75 TTB Form 5000.23 PR, Notice of Termination of Bond.

Pt. 26

PERMITS REQUIRED

26.76 Insular permits.

DISTILLED SPIRITS

26.77 Subject to tax.

26.78 Application and permit, TTB Form 5110.51.

26.79 Inspection or gauge and computation of tax.

26.79a Computation of effective tax rate.

26.80 Deferred payment of tax—release of spirits.

26.81 Prepayment of tax and release of spirits.

26.82 Permit to ship.

PACKAGES OF DISTILLED SPIRITS

26.86 Authority for shipment.

26.87 Evidence of taxpayment.

WINE

26.92 Subject to tax.

26.93 Application and permit, TTB Form 5100.21.

26.94 Computation of tax.

26.95 Deferred payment of tax—release of wine.

26.96 Prepayment of tax—release of wine.

26.96a [Reserved]

26.96b Permit to ship.

26.97 Marking containers of wine.

BEER

26.101 Subject to tax.

26.102 Application and permit, TTB Form 5100.21.

26.103 Computation of tax.

26.104 Deferred payment of tax—release of beer.

26.105 Prepayment of tax—release of beer.

26.105a Permit to ship.

26.106 Marking containers of beer.

ARTICLES

26.107 Taxable status.

26.108 Application for permit, TTB Form 5100.51 and/or 5100.21.

26.109 Taxpayment.

26.110 Release of articles or liquors.

PAYMENT OF TAX BY RETURN

26.111 General.

26.112 Returns for deferred payment of tax.

26.112a Payment of tax by electronic fund transfer.

26.113 Returns for prepayment of taxes.

PERMIT TO SHIP LIQUORS AND ARTICLES

26.114 Permit to ship required.

26.115 Application, TTB Form 5170.7.

26.116 Issuance of permit, TTB Form 5170.7, and customs inspection.

PROCEDURE AT PORT OF ARRIVAL

26.117 Action by carrier.

27 CFR Ch. I (4–1–23 Edition)

26.118 Inspection by district director of customs at port of arrival.

26.119 Disposition of forms by district director of customs.

Subpart F—Liquors and Articles Purchased by Tourists in Puerto Rico

26.125 Taxable.

26.126 Taxpayment in Puerto Rico.

26.128 Taxpayment at port of arrival.

Subpart G—Closures for Distilled Spirits From Puerto Rico

26.135 Containers of distilled spirits to bear closures.

26.136 Affixing closures.

Subpart H—Records and Reports of Liquors From Puerto Rico

26.163 General requirements.

26.164 Proprietors of taxpaid premises.

26.164a Package gauge record.

26.165 Certificate of effective tax rate computation.

Subpart I—Claims for Drawback on Eligible Articles From Puerto Rico

26.170 Drawback of tax.

26.171 Claimant registration.

26.172 Bonds.

26.173 Claims for drawback.

26.174 Records.

Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

26.191 Notice of shipment.

26.192 Samples and analysis.

26.193 Notification of tax liability.

26.194 Detention of articles.

Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to the Bonded Premises of a Distilled Spirits Plant

26.196 General.

26.197 Furnishing formula to consignee.

26.198 [Reserved]

26.199 Application and permit to ship, TTB Form 5110.31.

26.199a Action by revenue agent.

26.199b Issuance and disposition of permit.

26.199c Action by carrier.

26.199d Customs inspection and release.

26.199e [Reserved]

26.199f Consignee premises.

Subpart J—Products Coming Into the United States From the Virgin Islands

- 26.200 Taxable status.
- 26.201 Products exempt from tax.
- 26.201a Production in the Virgin Islands for tax-free shipment to the United States.
- 26.201b [Reserved]
- 26.201c Shipments of distilled spirits, natural wine, and beer to the United States without payment of tax.
- 26.202 Requirements of the Federal Alcohol Administration Act.
- 26.203 Containers of 1 gallon (3.785 liters) or less.
- 26.203a Containers in excess of 1 gallon (3.785 liters).
- 26.204 Regauge.
- 26.204a Verification of eligible wines and eligible flavors.
- 26.205 Certificate.
- 26.206 Marking packages and cases.
- 26.207 Destruction of marks and brands.
- 26.208 Craft Beverage Modernization Act Tax benefits.
- 26.209 Samples.

DEALER REGISTRATION AND RECORDKEEPING

- 26.210 Liquor dealer registration and record-keeping.
- 26.211 Warehouse receipts covering distilled spirits.

Subpart K—Formulas for Products From the Virgin Islands

- 26.220 Formulas for liquors.
- 26.221 Formulas for articles, eligible articles, and products manufactured with denatured spirits.
- 26.222 Still wines containing carbon dioxide.
- 26.223 Changes of formulas.
- 26.224 Filing and disposition of formulas.
- 26.225 Previously approved formulas.

Subpart L—Closures for Distilled Spirits From the Virgin Islands**GENERAL**

- 26.230 Containers of distilled spirits to bear closures.
- 26.231 Affixing closures.

Subpart M—Procedure at Port of Entry From the Virgin Islands

- 26.260 Required information.
- 26.261 [Reserved]
- 26.262 Determination of tax on distilled spirits.
- 26.262a Computation of effective tax rate.
- 26.263 Determination of tax on beer.
- 26.264 Determination of tax on wine.
- 26.265 Determination of tax on articles.
- 26.266 Tax payment.
- 26.267 Payment of tax by electronic fund transfer.

Subpart N—Records and Reports of Liquors From the Virgin Islands**RECORD AND REPORT OF LIQUORS BROUGHT INTO THE UNITED STATES**

- 26.272 General requirements.
- 26.273 Proprietors of taxpaid premises.
- 26.273a Transfer record.
- 26.273b Package gauge record.

FILING AND RETENTION OF RECORDS AND REPORTS

- 26.275 Filing.
- 26.276 Retention.
- 26.277 [Reserved]

Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

- 26.291 General.

SHIPMENT OF INDUSTRIAL SPIRITS AND SPECIALLY DENATURED SPIRITS

- 26.292 Consignee permit number.
- 26.293 Marks on containers.
- 26.294 Record of shipment.

SHIPMENT OF COMPLETELY DENATURED ALCOHOL AND PRODUCTS MADE WITH DENATURED SPIRITS

- 26.295 Marks on containers.
- 26.296 Record of shipment.

Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to the Bonded Premises of a Distilled Spirits Plant

- 26.300 General provisions.
- 26.301 Preparation of transfer record.
- 26.302–26.303 [Reserved]
- 26.304 Bulk conveyances to be sealed.
- 26.305 Receipt by consignee.

Subpart Ob—Claims for Drawback on Eligible Articles From the Virgin Islands

- 26.306 Drawback of tax.
- 26.307 Claimant registration.
- 26.308 Bonds.
- 26.309 Claims for drawback.
- 26.310 Records.

Subpart P—Requirements for Liquor Bottles

- 26.311 Scope of subpart.
- 26.312 Standards of fill.
- 26.314 Distinctive liquor bottles.
- 26.315 [Reserved]
- 26.316 Bottles not constituting approved containers.
- 26.317 Bottles to be used for display purposes.
- 26.318 Liquor bottles not eligible to be brought into the United States.

§ 26.1

27 CFR Ch. I (4–1–23 Edition)

26.319 Used liquor bottles.

Subpart Q—Miscellaneous Provisions

26.331 Alternate methods or procedures.

AUTHORITY: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6038E, 6065, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: 20 FR 6077, Aug. 20, 1955, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001.

EDITORIAL NOTE: Nomenclature changes to part 26 appear by T.D. ATF-451, 66 FR 21668, 21669, May 1, 2001.

Subpart A—Scope of Regulations

§ 26.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

This part, “Liquors and Articles from Puerto Rico and the Virgin Islands,” relates to:

(a) The production, bonded warehousing, and withdrawal of distilled spirits and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax;

(b) The collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands;

(c) The transfer, without payment of tax, of Puerto Rican and Virgin Islands spirits in bulk containers or by pipeline from customs custody to the bonded premises of a distilled spirits plant qualified under part 19 of this chapter, of Virgin Islands wine in bulk containers from customs custody to a bonded wine cellar qualified under part 24 of this chapter, and of Virgin Islands beer in bulk containers from customs custody to a brewery qualified under part 25 of this chapter;

(d) The deposit of the distilled spirits excise taxes, limited to the lesser of \$10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all articles containing distilled spirits as defined in section 7652, produced by those two U.S. possessions, and trans-

ported into the United States (less certain amounts); and

(e) The deposit of the distilled spirits excise taxes, limited to the lesser of \$10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), less certain amounts.

(Approved by the Office of Management and Budget under control number 1512-0277)

(Sec. 221, Pub. L. 98-67, 97 Stat. 369 (26 U.S.C. 7652))

[T.D. ATF-175, 49 FR 20803, May 16, 1984, as amended by T.D. ATF-203, 50 FR 15887, Apr. 23, 1985; T.D. TTB-145, 81 FR 94199, Dec. 22, 2016]

§ 26.2 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including applications, reports, returns, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF-92, 46 FR 46920, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5963, Feb. 27, 1987; T.D. ATF-372, 41 FR 20725, May 8, 1996; T.D. ATF-451, 66 FR 21668, May 1, 2001; T.D. TTB-44, 71 FR 16943, Apr. 4, 2006]

§ 26.3 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.26, Delegation of the Administrator’s Authorities in 27 CFR Part 26, Liquors and Articles From Puerto Rico and the Virgin Islands.

You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-44, 71 FR 16944, Apr. 4, 2006]

Subpart B—Definitions

§ 26.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular and vice versa, and words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

Administrator. The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.26, Delegation of the Administrator's Authorities in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the Virgin Islands.

Article. Any preparation unfit for beverage use, made with or containing:

- (1) Wine or beer;
- (2) Distilled spirits or industrial spirits; or
- (3) Denatured spirits when such preparation is not manufactured under the provisions of this chapter.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed, or produced from

malt, wholly or in part, or from any substitute therefor.

Bonded premises of a distilled spirits plant. The bonded premises of a distilled spirits plant as described in part 19 of this chapter. This term includes premises described in the preceding sentence even if the distilled spirits plant proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, has not provided a bond for the premises.

Bonded wine cellar. Premises established under part 24 of this chapter.

Bottler. Any person required to hold a basic permit as a bottler under 27 U.S.C. 203(b)(1).

Brewery. The land and buildings described in the brewer's notice, TTB Form 5130.10, where beer is to be produced and packaged.

Bulk container. When used in the context of distilled spirits, the term “bulk container” means any container having a capacity larger than one wine gallon. When used in the context of wine, the term “bulk container” means any container having a capacity larger than 60 liters. When used in the context of beer, the term “bulk container” means any container having a capacity larger than one barrel of 31 gallons.

Bulk distilled spirits. The term “bulk distilled spirits” means distilled spirits in a container having a capacity in excess of 1 gallon.

Bureau of Alcoholic Beverage Taxes. Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

Calendar quarter and quarterly. These terms refer to the three-month periods ending on March 31, June 30, September 30, or December 31.

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The “FRCS” or “Fedwire” is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other

commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

Denatured spirits. Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this chapter relating to the establishment and operation of plants qualified to denature spirits in the United States or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

Director of the service center. A director of an internal revenue service center.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Effective tax rate. The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 7652 is paid or determined.

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve

Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Eligible article. Any medicine, medicinal preparation, food product, flavor, flavoring extract or perfume which contains distilled spirits, is unfit for beverage purposes, and has been or will be brought into the United States from Puerto Rico or the Virgin Islands under the provisions of 26 U.S.C. 7652(g).

Eligible flavor. A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5114,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

Eligible wine. Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document, or where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this _____ (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Fiscal year. The period which begins October 1 and ends on the following September 30.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Importer. Any person who brings distilled spirits, wines, or beer into the United States from the Virgin Islands.

Industrial spirits. As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this

chapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

IRC registry number. The number assigned by TTB to each distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, bonded wine warehouse, or brewery upon approval of an application made pursuant to Internal Revenue Code of 1986 requirements (26 U.S.C. 5171, 5351–5353, or 5401).

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue.

Liquors. Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

Natural wine. The product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any proper cellar treatment and containing not more than 21 percent by weight (21 degrees Brix dealcoholized wine) of total solids. For purposes of this definition, “proper cellar treatment” means a production practice or procedure authorized for natural wine by part 24 of this chapter, or, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

Permit. A formal written authorization of the Secretary of the Treasury of Puerto Rico.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

Proof liter. A liter of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

Rectifier. Any person required to hold a rectifier’s basic permit under 27 U.S.C. 203(b)(1).

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

Taxpaid. As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was deferred under the provisions of subpart E of this part.

Treasury Account. The Department of the Treasury’s General Account at the Federal Reserve Bank of New York.

United States. The States and the District of Columbia.

U.S.C. The United States Code.

Virgin Islands regulations. Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and § 26.201a.

Wine. Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume. Wines containing

§ 26.30

more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13551, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

Subpart C [Reserved]

Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

§ 26.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 26.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-203, 50 FR 15888, Apr. 23, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

§ 26.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using permanent base percentages,

27 CFR Ch. I (4–1–23 Edition)

which represent the excise taxes collected on rum brought into the United States from Puerto Rico and from the Virgin Islands during fiscal year 1983. The base percentages are 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. The formula shall be as follows:

(1) Take the total amount of excise taxes collected on all rum brought or imported into the United States from all areas (including Puerto Rico and the Virgin Islands) during the previous fiscal year (October 1–September 30) and multiply that amount by 0.87626889 to determine the share of the entire U.S. rum market that will be allotted to Puerto Rico and by 0.12373111 to determine the share of the entire U.S. rum market that will be allotted to the Virgin Islands;

(2) Subtract from the share allotted to Puerto Rico under paragraph (a)(1) of this section the excise taxes collected on rum brought into the United States from Puerto Rico during the previous fiscal year, and subtract from the share allotted to the Virgin Islands under paragraph (a)(1) of this section the excise taxes collected on rum imported into the United States from the Virgin Islands during the previous fiscal year, to determine each possession's loss or gain in excise taxes in relation to the previous fiscal year's U.S. rum market. Then divide each result by the total excise taxes collected on rum imported into the United States during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands.

(b) Notwithstanding the formula prescribed in paragraph (a) above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.626889 percent nor drop below 51 percent.

(c) The percentage for the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands, that will be paid

over to the Treasuries of Puerto Rico and the Virgin Islands, shall be effective on March 1 of each year, and shall remain in effect until March 1 of the following year.

(d) The method for transferring the excise tax collections on rum imported from areas other than Puerto Rico and the Virgin Islands, into the Treasuries of Puerto Rico and the Virgin Islands shall be the same as the method used for transferring excise taxes into the Treasury of Puerto Rico on distilled spirits (with an alcohol content of at least 92 percent rum) brought into the United States from Puerto Rico.

(e) The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico shall continue to receive 86.4 percent of the eligible excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands. The Virgin Islands shall continue to receive 13.6 percent of these eligible excise taxes until March 1, 1987.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-233, 51 FR 28078, Aug. 5, 1986; 52 FR 2222, Jan. 21, 1987; T.D. TTB-91, 76 FR 5478, Feb. 1, 2011]

Subpart Cb—Products Coming Into the United States From Puerto Rico

§ 26.35 Taxable status.

(a) Liquors coming into the United States from Puerto Rico, except as provided in § 26.36, are subject to a tax equal to the internal revenue tax imposed on the production in the United States of like liquors. Articles coming into the United States from Puerto Rico, except as provided in § 26.36, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) The excise taxes collected on distilled spirits or articles containing distilled spirits shall be deposited into the Treasury of Puerto Rico only if at least 92 percent of the alcoholic content of such products is rum. The amount deposited into the Treasury of Puerto Rico shall not exceed the lesser of \$10.50, or the rate imposed by 26 U.S.C.

5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of such distilled spirits or articles, other than eligible articles, containing distilled spirits coming into the United States or consumed on the island. Such excise tax deposits will be reduced by the estimated amount necessary for payment of refunds and drawbacks.

(c) Except for products described in 26 U.S.C. 7652(c), no excise taxes shall be deposited into the Treasury of Puerto Rico if an excise tax subsidy is provided by Puerto Rico that is of a kind different from, or in an amount per value or volume of production greater than, any subsidy offered by Puerto Rico to industries manufacturing products not subject to Federal excise tax.

(Sec. 2682, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 7652))

[T.D. ATF-175, 49 FR 20804, May 16, 1984, as amended by T.D. ATF-203, 50 FR 15888, Apr. 23, 1985; T.D. ATF-263, 52 FR 46593, Dec. 9, 1987. Redesignated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

§ 26.36 Products exempt from tax.

(a) *General.* Industrial spirits, denatured spirits, and products made with denatured spirits in Puerto Rico may be brought into the United States without incurring tax liability imposed by 26 U.S.C. 5001 or 7652.

(b) *Industrial spirits.* A distiller of industrial spirits who registers and files a bond as a distilled spirits plant in accordance with part 19 of this chapter may ship industrial spirits to a tax-free alcohol user in the United States who holds a permit issued under part 22 of this chapter. These shipments shall be made in accordance with the requirements of parts 19 and 22 of this chapter.

(c) *Denatured spirits.* A distiller who registers and files a bond as a distilled spirits plant in accordance with part 19 of this chapter and who denatures spirits in accordance with parts 19 and 21 of this chapter may ship completely denatured alcohol to anyone in the United States, and may ship specially denatured spirits to a dealer or user of specially denatured spirits in the United States or Puerto Rico who holds a permit issued under part 20 of this chapter. These shipments shall be

§§ 26.36a–26.36b

made in accordance with the requirements of parts 19 and 20 of this chapter, and subpart Ia of this part.

(d) *Products made with denatured spirits.* (1) A person in Puerto Rico who manufactures products with completely denatured alcohol in accordance with the requirements of part 20 of this chapter may ship those products to the United States in accordance with the requirements of part 20 of this chapter, and subpart Ia of this part.

(2) A person in Puerto Rico who manufactures products with specially denatured spirits may ship those products to the United States if that person (i) obtains a permit to use specially denatured spirits under part 20 of this chapter, and (ii) complies with the requirements of part 20 of this chapter and subpart Ia of this part relating to the manufacture and shipment of those products.

[T.D. ATF-199, 50 FR 9198, Mar. 6, 1985; T.D. ATF-199, 50 FR 20099, May 14, 1985, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988]

§§ 26.36a–26.36b [Reserved]

§ 26.36c Shipments of bulk distilled spirits to the United States without payment of tax.

Bulk distilled spirits may be brought into the United States from Puerto Rico without payment of tax for transfer from customs custody to the bonded premises of a distilled spirits plant qualified under part 19 of this chapter. Such shipments are subject to the provisions of subpart Ib.

[T.D. ATF-62, 44 FR 71709, Dec. 11, 1979]

§ 26.37 Alcohol and Tobacco Tax and Trade Bureau Officers.

Appropriate TTB officers are authorized to collect internal revenue taxes on liquors and articles subject to tax, which are to be shipped to the United States.

[T.D. TTB-44, 71 FR 16944, Apr. 4, 2006]

§ 26.38 Containers of distilled spirits.

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon (3.785 liters), shall

27 CFR Ch. I (4–1–23 Edition)

conform to the requirements of subpart P of this part.

[T.D. ATF-34, 41 FR 46863, Oct. 26, 1976]

§ 26.39 Labels.

All labels affixed to bottles of liquors coming into the United States shall conform to the requirements of the Federal Alcohol Administration Act and implementing regulations (parts 4, 5, and 7 of this chapter).

[T.D. ATF-48, 44 FR 55851, Sept. 28, 1979]

§ 26.40 Marking containers of distilled spirits.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the distiller, rectifier, or bottler.

(b) The brand name and kind of liquor;

(c) The wine and proof gallon contents; or, for bottles filled according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits; and

(d) In the case of barrels or casks, the serial number of the permit to ship, Form 487-B, prefixed by the number of such form (e.g., “487-B-61-1”)

(e) In the case of bulk containers shipped to the United States under subpart Ib, the serial number of the application and permit to ship, TTB Form 5110.31, instead of the serial number of Form 487-B.

[T.D. ATF-43, 42 FR 30836, June 17, 1977, as amended by T.D. ATF-62, 44 FR 71709, Dec. 11, 1979]

§ 26.41 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed

or obscured or obliterated before the contents thereof have been removed.

(Sec. 201, Pub. L. 85-859, 1358, as amended, 26 U.S.C. 5205)

[T.D. ATF-198, 50 FR 8548, Mar. 1, 1985]

§ 26.43 Samples.

The appropriate TTB officer may require samples of liquors and articles to be submitted whenever desired for laboratory analysis in order to determine the rates of tax applicable thereto.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

DEALER REGISTRATION AND RECORDKEEPING

§ 26.44 Liquor dealer registration and recordkeeping.

Every person bringing liquors into the United States from Puerto Rico who sells, or offers for sale, such liquors must register and keep records as a wholesale dealer in liquor or as a retail dealer in liquor in accordance with part 31 of this chapter.

(26 U.S.C. 5121, 5122, 5123, 5124.)

[T.D. TTB-79, 74 FR 37405, July 28, 2009]

§ 26.45 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, every person bringing distilled spirits into the United States from Puerto Rico who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, must register and keep records as a dealer in liquors at the place where the warehouse receipts are sold, or offered for sale, in accordance with part 31 of this chapter.

(26 U.S.C. 5121, 5122, 5123, 5124)

[T.D. TTB-79, 74 FR 37405, July 28, 2009]

§§ 26.46–26.47 [Reserved]

Subpart D—Formulas for Products From Puerto Rico

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

§ 26.50 Formulas for liquors.

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

(b) *Wine.* Persons in Puerto Rico who ship wine to the United States shall comply with the formula requirements of part 24 of this chapter. If any wine contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 698 Supplemental, in accordance with § 26.54.

(Approved by the Office of Management and Budget under control number 1512-0204)

[T.D. ATF-198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38551, July 25, 2001; T.D. TTB-91, 76 FR 5479, Feb. 1, 2011]

§ 26.50a Verification of eligible flavors.

(a) Any person who, after December 1, 1990, ships to the United States any distilled spirits on which the tax has been or is to be paid or determined at an effective tax rate based in part on the alcohol content derived from any eligible flavor not previously approved on TTB Form 5530.5 (1678) or 5150.19 shall, before the first tax determination at that rate, request and receive a statement of eligibility for each flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the person shipping the distilled spirits shall submit to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample; and

§ 26.51

(2) A statement of composition using TTB Form 5154.1 or a letterhead request that lists the—

(i) Name and percentage of alcohol by volume of the flavor; and

(ii) Name and quantity of each ingredient used in the manufacture of the flavor.

(Approved by the Office of Management and Budget under control number 1512-0203)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18066, Apr. 30, 1990, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001; T.D. TTB-44, 71 FR 16944, Apr. 4, 2006]

§ 26.51 Formulas for articles, eligible articles and products manufactured with denatured spirits.

(a) *Formulas for articles and eligible articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, and the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine. Formulas and samples for eligible articles are required in accordance with subpart F of part 17 of this chapter.

(b) *Formulas for products manufactured with denatured spirits.* Products manufactured with denatured spirits shall be manufactured in accordance with the formula requirements of part 20 of this chapter for similar products made in the United States.

(1) Products may be made with completely denatured alcohol for sale under brand names under part 20 of this chapter without obtaining an approved formula. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the product is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

(2) Products made with specially denatured spirits shall be made in accordance with (i) a general-use formula approved as provided in part 20 of this

27 CFR Ch. I (4-1-23 Edition)

chapter, or (ii) an approved formula on Form 5150.19, or previously approved on TTB Form 1479-A or 27-B Supplemental.

(c) *Formulas required.* Formulas required by this section shall be submitted on Form 5150.19, except that formulas for eligible articles shall be submitted on Form 5154.1 (formerly 1678). Formulas shall be submitted in accordance with § 26.54. Any formula for an eligible article approved on Form 5150.19 prior to October 23, 1986 shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula.

(Approved by the Office of Management and Budget under control number 1512-0494)

[44 FR 71709, Dec. 11, 1979, as amended by T.D. ATF-199, 50 FR 9198, Mar. 6, 1985; T.D. ATF-263, 52 FR 46593, Dec. 9, 1987; T.D. ATF-379, 61 FR 31427, June 20, 1996. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.52 Still wines containing carbon dioxide.

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the appropriate TTB officer. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is

any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in quadruplicate to the appropriate TTB officer, who shall retain one copy, forward one copy to the Secretary, and one copy to the revenue agent at the proprietor's premises, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by revenue agents.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C 5041))

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-251, 52 FR 19338, May 22, 1987]

§ 26.53 Changes of formulas.

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

§ 26.54 Filing and disposition of formulas.

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

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

§ 26.55 Previously approved formulas.

Any formula approved on Form 27-B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27-B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the notice requirement of § 26.52 shall not apply.

[44 FR 71709, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Subpart E—Taxpayment of Liquors and Articles in Puerto Rico

SOURCE: T.D. 6551, 26 FR 1490, Feb. 22, 1961, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

BONDS

§ 26.61 General.

Every person filing a bond under this subpart, or consent of surety on such bond, must file it in accordance with the instructions on the form.

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

§ 26.62 Corporate surety.

(a) Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary of the Treasury, as set forth in the current revision of U.S. Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

(b) Department of the Treasury Circular 570 is published in the FEDERAL REGISTER annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

[T.D. ATF-92, 46 FR 46921, Sept. 23, 1981, as amended by T.D. TTB-146, 82 FR 1130, Jan. 4, 2017]

§ 26.62a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond may, when he deems

§ 26.62b

it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. ATF-2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987]

§ 26.62b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

[T.D. ATF-2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 26.63 Deposit of securities or cash (including cash equivalents) in lieu of corporate surety.

(a) *Deposit of securities.* In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225—Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties.

(b) *Deposit of cash or cash equivalent.* In lieu of corporate surety, a person can file a bond that guarantees payment of the liability by submitting cash or its equivalent (including a money order, cashier's check, or personal check). Cash or its equivalent must be no less than the penal sums of the required bonds. Cash equivalents must be payable to the Alcohol and Tobacco Tax and Trade Bureau.

(5 U.S.C. 552(a) (80 Stat. 383, as amended); 61 Stat. 650; 6 U.S.C. 15)

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-92, 46 FR 46921, Sept. 23, 1981; T.D. TTB-146, 82 FR 1130, Jan. 4, 2017]

§ 26.64 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on

27 CFR Ch. I (4-1-23 Edition)

TTB Form 5000.18 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961, as amended T.D. TTB-146, 82 FR 1130, Jan. 4, 2017]

§ 26.65 Authority to approve bonds and consents of surety.

The appropriate TTB officer is authorized to approve all bonds and consents of surety filed under this part.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987]

§ 26.66 Bond, TTB Form 5110.50—Distilled spirits.

(a) *General.* Except as provided in paragraph (c) of this section, if any person intends to ship to the United States, distilled spirits products of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), the person must, before making any such shipment, furnish a bond. The person must furnish a bond on TTB Form 5110.50 for each premises from which shipment will be made, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all distilled spirits products shipped. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$1,000,000, but in no case will the penal sum be less than \$1,000.

(b) *Blanket bond.* Any person who is the proprietor of more than one premises in Puerto Rico from which shipment of spirits to the United States will be made, may, in lieu of furnishing two or more separate bonds on TTB Form 5110.50 as required by paragraph (a) of this section, furnish a blanket bond on TTB Form 5110.50. The penal sum of such blanket bond shall be equal to the sum of the penal sums of all the bonds in lieu of which it is given. Such blanket bond on TTB Form 5110.50 shall show each bonded warehouse and/or bonded processing room

and/or rectifying plant to be covered by the bond, and the part of the total penal sum (computed in accordance with paragraph (a) of this section) to be allocated to each of the designated premises. If the penal sum of the bond allocated to a designated premises is in an amount less than the maximum prescribed in paragraph (a) of this section, transactions at such premises shall not exceed the quantity permissible, as reflected by the penal sum allocated in the bond to such premises. Such blanket bond shall contain the terms and conditions of the bonds in lieu of which it is given and shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(c) *Bonds covering spirits for nonindustrial use and industrial use*—(1) *Nonindustrial use*. A person who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of distilled spirits for nonindustrial use during any portion of a calendar year for which the person is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, a person is considered to be paying tax on a deferred basis even if the person does not pay tax during every return period as long as the person intends to pay tax in a future period. TTB may require a person who has defaulted on any payment to prepay tax as provided in § 26.112(e).

(2) *Industrial use*. A person is required to furnish a bond under this section to cover shipments of distilled spirits for industrial use even if the person pays tax on a deferred basis under § 26.112 and is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For bond requirements governing industrial spirits and other products brought into the United States without incurring tax liability, see § 26.36.

(3) *Nonindustrial use and industrial use defined*. The nonindustrial and indus-

trial uses of distilled spirits are defined in subpart D of part 1 of this chapter.

(Act of August 16, 1954, 68A Stat. 847, as amended, 907, as amended (26 U.S.C 7101, 7102, 7652))

[T.D. ATF-62, 44 FR 71710, Dec. 11, 1979, as amended by T.D. TTB-146, 82 FR 1130, Jan. 4, 2017]

§ 26.67 Bond, TTB Form 5120.32—Wine.

(a) *General*. Except as provided in paragraph (b) of this section, where a proprietor intends to withdraw, for purpose of shipment to the United States, wine of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5041, the proprietor must, before making any such withdrawal, furnish a bond. The proprietor must furnish the bond on TTB Form 5120.32, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all wine so withdrawn. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$250,000, but in no case will the penal sum be less than \$500.

(b) *Bonds covering wine for nonindustrial use and industrial use*—(1) *Nonindustrial use*. A proprietor who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of wine for nonindustrial use during any portion of a calendar year for which the proprietor is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, the proprietor is considered to be paying tax on a deferred basis even if the proprietor does not pay tax during every return period as long as the proprietor intends to pay tax in a future period. TTB may require a proprietor who has defaulted on any payment to prepay tax as provided in § 26.112(e).

(2) *Industrial use*. A proprietor is required to furnish a bond under this section to cover shipments of wine for industrial use even if the proprietor pays tax on a deferred basis under § 26.112 and is eligible to use an annual or

§ 26.68

quarterly return period under § 26.112(b)(2) or (b)(3).

(3) *Nonindustrial use and industrial use defined.* The nonindustrial and industrial uses of wine are defined in subpart D of part 1 of this chapter.

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

[T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.68 Bond, TTB Form 5130.16—Beer.

(a) *General.* Except as provided in paragraph (b) of this section, where a brewer intends to withdraw, for purpose of shipment to the United States, beer of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5051, the brewer must, before making any such withdrawal, furnish a bond. The brewer must furnish the bond on TTB Form 5130.16, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all beer so withdrawn. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$500,000, but in no case will the penal sum be less than \$1,000.

(b) *Bond exemption for certain brewers based on tax liability.* A brewer who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of beer during any portion of a calendar year for which the brewer is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, the brewer is considered to be paying tax on a deferred basis even if the brewer does not pay tax during every relevant period as long as the brewer intends to pay tax in a future period. TTB may require a brewer who has defaulted on

27 CFR Ch. I (4–1–23 Edition)

any payment to prepay tax as provided in § 26.112(e).

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

[T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.68a Bond account.

Every person who files a bond under this subpart shall keep an account of the charges against and credits to the bond if the penal sum of his bond is less than the maximum prescribed in §§ 26.66(a), 26.67, or § 26.68, or if the penal sum allocated to his premises under § 26.66(b) is less than the prescribed maximum. He shall charge the bond with the amount of liability he accepts at the time he executes TTB Form 5110.51 or 5100.21, and shall credit the bond with the amount of the tax paid at the time he files each return, and remittance. The account shall also show the balance available under the bond at any one time.

[T.D. ATF-62, 44 FR 71710, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.69 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

§ 26.70 Superseding bonds and new bonds for previously exempt persons.

(a) *Superseding bonds.* Superseding bonds will be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of an existing bond. Executors, administrators,

assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 26.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the operations to which such bond relates, he must file a valid superseding bond to be effective on or before the date specified in the surety's notice. Superseding bonds must show the current date of execution and the effective date.

(b) *New bonds for previously exempt persons.* If a person has not furnished a bond as provided in this subpart because the person was exempt from bond requirements under §§ 26.66(c), 26.67(b), or 26.68(b), the person must furnish a bond to cover shipments following the first date on which the aggregate amount of tax due from the person during the calendar year exceeds \$50,000. If a person has not furnished the required bond for shipments under this subpart, the person must prepay tax on those shipments as provided in § 26.112(e).

[T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.70a Notice of approval of bonds.

Upon approval of an original, a strengthening, or a superseding bond, the appropriate TTB officer shall notify the Secretary, and the revenue agent at the premises, of the total penal sum of the bond or bonds, and in the case of a blanket bond, the amount of the penal sum allocated to the premises.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987]

TERMINATION OF BONDS

§ 26.71 Termination of bonds.

Any bond given under the provisions of this subpart may be terminated as to future transactions—

(a) Pursuant to application of surety as provided in § 26.72;

(b) On approval of a superseding bond;

(c) On notification by the principal to the appropriate TTB officer that he has discontinued transactions under the bond (including for the reason that the principal is exempt from bond requirements under §§ 26.66(c), 26.67(b), or 26.68(b)); or

(d) On notification by the principal to the appropriate TTB officer that he has discontinued business.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.72 Application of surety for relief from bond.

A surety on any bond given under the provisions of this subpart may at any time in writing notify the principal and the appropriate TTB officer that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 10 days after the date the notice is received by the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 26.73.

(Approved by the Office of Management and Budget under control number 1512-0352)

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-251, 52 FR 19338, May 22, 1987. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.73 Relief of surety from bond.

Where the surety on a bond given under the provisions of this subpart has filed application for relief from liability, as provided in § 26.72, the surety shall be relieved from liability for

§ 26.74

transactions occurring wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975 and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.74 Release of pledged securities or cash (including cash equivalents).

Securities of the United States pledged and deposited as provided in § 26.63(a), will be released only in accordance with the provisions of 31 CFR part 225. Securities and cash (including cash equivalents) will not be released by the appropriate TTB officer until the liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, the appropriate TTB officer will fix the date or dates on which a part or all of such securities and cash (including cash equivalents) may be released. At any time prior to the release, the appropriate TTB officer may extend the date of release for such additional length of time as the appropriate TTB officer deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

[T.D. TTB-146, 82 FR 1131, Jan. 4, 2017]

§ 26.75 TTB Form 5000.23 PR, Notice of Termination of Bond.

When the appropriate TTB officer is satisfied that any bond given under the provisions of this subpart may be terminated, he shall issue TTB Form 5000.23 PR, Notice of Termination of Bond, and shall forward copies to the principal and to the surety. The appropriate TTB officer shall, prior to the termination date, notify the Secretary and the revenue agent of the proposed termination of any bond given under this part and the date of such termination.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963, as amended by T.D. ATF-2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

27 CFR Ch. I (4-1-23 Edition)

PERMITS REQUIRED

§ 26.76 Insular permits.

Before liquors or articles of Puerto Rican manufacture may be shipped to the United States, an insular permit, TTB Form 5110.51 (for distilled spirits) or TTB Form 5100.21 (for wine or beer), to compute the taxes imposed by 26 U.S.C. 7652(a), and to withdraw the products from the bonded establishment where they may be deposited, must be obtained from the Secretary, and such products may not be shipped to the United States until a permit to ship, on TTB Form 5170.7, is applied for and obtained from the Secretary.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.76, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

DISTILLED SPIRITS

§ 26.77 Subject to tax.

(a) Distilled spirits of Puerto Rican manufacture, and any products containing such distilled spirits, brought into the United States and withdrawn for consumption or sale are subject to a tax equal to the tax imposed in the United States by 26 U.S.C. 5001.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 26.79a. The effective tax rate established will be applied to each withdrawal or other disposition of the

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 26.79a

distilled spirits for consumption or sale within the United States.

(Approved by the Office of Management and Budget under control number 1512-0203)

(Act of Aug. 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18066, Apr. 30, 1990. Re-designated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.78 Application and permit, TTB Form 5110.51.

Application for permit to compute the tax on, and to withdraw, distilled spirits shall be made on TTB Form 5110.51, in quintuplicate, by the proprietor. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and forward the original and remaining copies of the form to the revenue agent at the premises where the products are located.

[T.D. ATF-62, 44 FR 71711, Dec. 11, 1979, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987]

§ 26.79 Inspection or gauge and computation of tax.

On receipt of permit to compute the tax on TTB Form 5110.51, the revenue agent shall:

- (a) In the case of spirits in packages, prepare a gauge record as provided in § 26.164a in quadruplicate, compute the tax thereon, and attach all copies of the gauge record to TTB Form 5110.51;
- (b) In the instance of spirits in cases, verify by inspection the quantity of spirits described on the form; or
- (c) In the case of spirits in a bulk conveyance, verify by gauge or inspection the quantity of spirits described on the form.

If the revenue agent determines any variation between his gauge and the quantity of spirits described on Form 5110.51, he shall amend and initial the data in part I of the form. The revenue agent shall deliver all copies of Form 5110.51 and any accompanying package gauge record to the proprietor. The

proprietor shall then compute and enter the amount of tax on all copies of Form 5110.51.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8549, Mar. 1, 1985. Re-designated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.79a Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) the numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it

§ 26.80

27 CFR Ch. I (4–1–23 Edition)

will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD	
Distilled spirits	2249.1 proof gallons.

BATCH RECORD—Continued	
Eligible wine (14% alcohol by volume).	2265.0 wine gallons
Eligible wine (19% alcohol by volume).	1020.0 wine gallons
Eligible flavors	100.9 proof gallons

$$\begin{aligned}
 & \frac{2249.1(\$12.50) + [2265.0(\$17) + 1020(\$67)] + 16.6^1(\$12.50)}{2249.1 + 100.9 + [2265.0(.28) + 1020.0(.38)]} = \\
 & \frac{2249.1(\$13.50) + [2265.0(\$1.07) + 1020(\$1.57)] + 16.6^1(\$13.50)}{2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38)} = \\
 & \frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6} = \\
 & \frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}
 \end{aligned}$$

(Approved by the Office of Management and Budget under control number 1512–0203)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18066, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52741, Dec. 21, 1990]

§ 26.80 Deferred payment of tax—release of spirits.

(a) *Action by proprietor.* Where the proprietor wishes to defer payment of tax, he must execute an agreement on TTB Form 5110.51 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.66, he must certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable against this bond. If the proprietor deferring payment of tax is not required to provide a bond under § 26.66, the proprietor must certify under the penalties of perjury that the proprietor was liable for not more than \$50,000 in taxes in the preceding calendar year, reasonably expects to be liable for not more than

\$50,000 during the current calendar year, and is not using the TTB Form 5100.21 for any shipment of distilled spirits for industrial use. The proprietor must deliver all copies of TTB Form 5110.51 and any package gauge record as provided in § 26.164a to the revenue agent.

(b) *Action by revenue agent.* On receipt of TTB Form 5110.51 and any package gauge record, the revenue agent shall verify the computation of the tax entered on the TTB Form 5110.51, and if the proprietor has on file a good and sufficient bond, TTB Form 5110.50, so indicate on TTB Form 5110.51. The revenue agent shall then execute his report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. He shall distribute TTB Form 5110.51 and any package gauge record according to the instructions of TTB Form 5110.51. Where the revenue agent finds that the proprietor does not have good and sufficient bond

¹Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the

total proof gallons in the batch (100.9 – (2½%) × 3.371.8 = 16.6).

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 26.87

coverage, or where the revenue agent has received information that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of TTB Form 5110.51 and any package gauge record to the proprietor, giving his reasons for such action.

(Approved by the Office of Management and Budget under control number 1513-0056)

[T.D. ATF-198, 50 FR 8549, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.81 Prepayment of tax and release of spirits.

(a) *Action by proprietor.* Where the distilled spirits are to be released after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 5110.51 and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate, and send the original with all copies of TTB Form 5110.51 and any package gauge record as provided in § 26.164a and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 5110.51, 5000.25 and any package gauge record, with remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 5110.51. The appropriate TTB officer shall then retain the originals of TTB Forms 5110.51 and 5000.25 and forward the remaining copies of TTB Form 5110.51 in accordance to the instructions on the form.

(c) *Action by revenue agent.* On receipt of TTB Form 5110.51 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. The completed TTB Form 5110.51 shall be distributed ac-

cording to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0210 and 1512-0497)

[T.D. ATF-277, 53 FR 45267, Nov. 9, 1988. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.82 Permit to ship.

Distilled spirits may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71711, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

PACKAGES OF DISTILLED SPIRITS

§ 26.86 Authority for shipment.

Where distilled spirits of Puerto Rican manufacture are to be shipped to the United States in containers having a capacity of more than one gallon, the laws and regulations of the Commonwealth of Puerto Rico require that prior approval for such shipment be obtained from the Secretary.

[T.D. 6695, 28 FR 12933, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 26.87 Evidence of taxpayment.

Where, under the provisions of § 26.86, a person has made application to the Secretary for authority to ship distilled spirits of Puerto Rican manufacture to the United States in containers having a capacity of more than one gallon, he shall, at the same time, submit sworn evidence to the Secretary that the distilled spirits tax has been paid as provided in § 26.81 or deferred as provided in § 26.80, or he shall submit application, TTB Form 5110.51, for permit to pay such taxes, as provided in § 26.78. When satisfied that the shipper has complied with all provisions of this part relating to the payment of taxes on such distilled spirits, the Secretary or his delegate, shall note his approval

§ 26.92

on both copies of the sworn application, and return one copy to the shipper. On receipt of the approved application, the shipper shall submit application for permit to ship, TTB Form 5170.7, as prescribed in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12933, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71711, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

WINE

§ 26.92 Subject to tax.

(a) Wine of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale is subject to a tax equal to the internal revenue tax imposed in the United States on wine by 26 U.S.C. 5041.

(b) The excise taxes collected on wine of Puerto Rican manufacture shall be deposited in the Treasury of Puerto Rico only if the sum of the cost or value of the materials produced in Puerto Rico, plus the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of the wine when it is brought into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-206, 50 FR 15888, Apr. 23, 1985]

§ 26.93 Application and permit, TTB Form 5100.21.

When wine of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in an article made with wine only or with wine and beer only, for shipment to the United States, application for permit to compute the tax on, and to withdraw, the wine shall be made on TTB Form 5100.21, in quintuplicate, by the proprietor of the bonded premises where the wine is stored. If the withdrawal is to be made in casks, barrels, kegs or similar containers, the proprietor shall enter the name of the wine-maker producing the wine, the serial numbers of the packages, the total number of wine gallons contained therein, and the taxable grade of the wine, for example, "not more than 14 percent" if the wine contains not more

27 CFR Ch. I (4-1-23 Edition)

than 14 percent of alcohol by volume, "14-21 percent" if the wine contains more than 14 percent and not exceeding 21 percent of alcohol by volume, "21-24 percent" if the wine contains more than 21 percent but not exceeding 24 percent of alcohol by volume. If the application covers more than one taxable grade of wine, the quantity in each taxable grade shall be reported separately. If the withdrawal is to consist of bottled wine, the proprietor shall show the number of cases, size of the bottles, the number of bottles per case, the total quantity in wine gallons, and the taxable grade of the wine in the manner stated above. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and three copies to the proprietor.

[T.D. ATF-62, 44 FR 71712, Dec. 11, 1979, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.94 Computation of tax.

On receipt of permit to compute the tax on Form 2900, the proprietor shall compute and enter the amount of the tax on all copies of the form.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 26.95 Deferred payment of tax—release of wine.

(a) *Action by proprietor.* Where the proprietor wishes to defer payment of tax, he must execute the agreement on TTB Form 5100.21 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.67, he must certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the wine described on the form in addition to all other amounts chargeable against his bond. If the proprietor deferring payment of tax is not required to provide a bond under § 26.67, the proprietor must certify under the penalties of perjury that the proprietor was liable for not more

than \$50,000 in taxes in the preceding calendar year, reasonably expects to be liable for not more than \$50,000 during the current calendar year, and is not using the TTB Form 5100.21 for any shipment of wine for industrial use. The proprietor must deliver all copies of TTB Form 5100.21 to the revenue agent.

(b) *Action by revenue agent.* On receipt of TTB Form 5100.21, the revenue agent shall verify the computation of the tax entered on the form, and if the proprietor has on file a good and sufficient bond, TTB Form 5120.32, so indicate on TTB Form 5100.21. The revenue agent shall then execute his report of release on the TTB Form 5100.21 and release the wine for the purpose authorized on the form. The completed form shall be distributed in the same manner as provided for TTB Form 5110.51 in § 26.80(b). Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of TTB Form 5100.21 to the proprietor, giving his reasons for such action.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.96 Prepayment of tax—release of wine.

(a) *Action by proprietor.* Where the wine is to be withdrawn from bonded storage after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of

TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5100.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions on the form.

(c) *Action by revenue agent.* On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the wine for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0149 and 1512-0497)

[T.D. ATF-277, 53 FR 45267, Nov. 9, 1988]

§ 26.96a [Reserved]

§ 26.96b Permit to ship.

Wine released from bonded storage under § 26.95 or § 26.96 may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.97 Marking containers of wine.

Containers of wine of Puerto Rican manufacture which are to be shipped to the United States must be marked with the name of the winemaker, the serial number of the container, the kind and taxable grade of the wine, the gallon content, and the serial number of the withdrawal permit, TTB Form 5170.7, prefixed by the number of such form, e.g., “ 5170.7-17-1.”

[20 FR 6077, Aug. 20, 1955, as amended by T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

BEER

§ 26.101 Subject to tax.

(a) Beer of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale is subject to a tax equal to the internal

§ 26.102

revenue tax imposed on beer in the United States by 26 U.S.C. 5051.

(b) The excise taxes collected on beer of Puerto Rican manufacture shall be deposited in the Treasury of Puerto Rico only if the sum of the cost or value of the materials produced in Puerto Rico, plus the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of the beer when it is brought into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-206, 50 FR 15888, Apr. 23, 1985]

§ 26.102 Application and permit, TTB Form 5100.21.

When beer of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in making an article for shipment to the United States, application for permit to compute the tax on, and to withdraw, the beer shall be made by the brewer on TTB Form 5100.21, in quintuplicate. If the withdrawal is to be made in hogsheads, barrels, or kegs, the brewer shall enter the total number of each size, according to capacity, of containers which it is desired to withdraw. If the withdrawal is to be made in bottles, the brewer shall enter the number of cases, size of bottles, number of bottles per case, the total contents thereof in gallons (liquid measure), and the equivalent thereof in barrels and fractions of barrels of 31 gallons each. The brewer shall forward all copies of the TTB Form 5100.21 to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and three copies to the brewer.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.103 Computation of tax.

On receipt of permit to compute the tax on TTB Form 5100.21 the brewer

27 CFR Ch. I (4-1-23 Edition)

shall compute and enter the amount of the tax on all copies of the form.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.104 Deferred payment of tax—release of beer.

(a) *Action by brewer.* Where the brewer will defer payment of tax, he must execute the agreement on TTB Form 5100.21 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.68, he must certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the beer described on the form in addition to all other amounts chargeable against his bond. If the brewer deferring payment of tax is not required to provide a bond under § 26.68, the brewer must certify under the penalties of perjury that the brewer was liable for not more than \$50,000 in taxes in the preceding calendar year and reasonably expects to be liable for not more than \$50,000 during the current calendar year. The brewer must deliver all copies of Form 5100.21 to the revenue agent.

(b) *Action by revenue agent.* On receipt of TTB Form 5100.21, the revenue agent shall verify the computation of the tax entered on the form, and if the proprietor has on file a good and sufficient bond, TTB Form 5130.16, so indicate on TTB Form 5100.21. The revenue agent shall then execute his report of release on the TTB Form 5100.21 and release the beer for the purpose authorized on the form. The completed form shall be distributed in the same manner as provided for TTB Form 5110.51 in § 26.80(b). Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of TTB Form

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 26.108

5100.21 to the proprietor, giving his reasons for such action.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

§ 26.105 Prepayment of tax—release of beer.

(a) *Action by brewer.* Where the beer is to be withdrawn from bonded storage after payment of the computed tax the brewer shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The brewer shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5110.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions of the form.

(c) *Action by revenue agent.* On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the beer for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0149 and 1512-0497)

[T.D. ATF-277, 53 FR 45268, Nov. 9, 1988]

§ 26.105a Permit to ship.

Beer released from bonded storage under § 26.104 or § 26.105 may not be shipped to the United States until permit for such shipment has been ob-

tained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12935, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.106 Marking containers of beer.

Containers of beer of Puerto Rican manufacture which are to be shipped to the United States must be marked with the name of the brewer; the serial number, capacity, and size of the container; the kind of beer; and the serial number of the withdrawal permit, TTB Form 5170.7, prefixed by the number of such form, e.g., “ 5170.7-17-1.”

[20 FR 6077, Aug. 20, 1955, as amended by T.D. TTB-146, 82 FR 1132, Jan. 4, 2017]

ARTICLES

§ 26.107 Taxable status.

Articles of Puerto Rican manufacture which are to be shipped to the United States and which are not exempt from tax under the provisions of § 26.36 are subject, under section 7652(a) to a tax equal to the tax imposed by the internal revenue laws of the United States. If such articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Such articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. A formula covering the manufacture of each article shall be filed by the manufacturer in accordance with subpart D of this part.

[T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

§ 26.108 Application for permit, TTB Form 5100.51 and/or 5100.21.

(a) *Distilled spirits.* Where distilled spirits of Puerto Rican manufacture are to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 5110.51, in accordance with the applicable provisions of § 26.78.

(b) *Wine and/or beer.* Where wine and/or beer of Puerto Rican manufacture is to be used in the manufacture of the

§ 26.109

articles to be shipped to the United States, the manufacturer shall make application on TTB Form 5100.21, in accordance with the applicable provisions of §§ 26.93 and/or 26.102. Wine and beer may be included in the same application.

(c) *Approval of applications.* The Secretary, or his delegate, shall approve and dispose of the applications in the manner prescribed in §§ 26.78, 26.93, and/or § 26.102, as the case may be.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1133, Jan. 4, 2017]

§ 26.109 Taxpayment.

(a) *Distilled spirits.* The tax on distilled spirits contained in articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), shall be computed in accordance with § 26.79 and paid in accordance with the applicable provisions of §§ 26.80, 26.81, and 26.111 through 26.113.

(b) *Wine.* The tax on wine used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5041, shall be computed in accordance with § 26.94 and paid in accordance with the applicable provisions of §§ 26.95, 26.96, and 26.111 through 26.113.

(c) *Beer.* The tax on beer used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5051, shall be computed in accordance with § 26.103 and paid in accordance with the applicable provisions of §§ 26.104, 26.105, and 26.111 through 26.113.

[T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.110 Release of articles or liquors.

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of TTB Form 5110.51 or TTB Form 5100.21 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25, and remittance, the

27 CFR Ch. I (4–1–23 Edition)

revenue agent shall execute his report of release on TTB Form 5110.51 or TTB Form 5100.21 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of TTB Form 5110.51 or TTB Form 5100.21, and any package gauge record as provided in § 26.164a, to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy. A permit shall be obtained as provided in §§ 26.114 through 26.116 before the articles manufactured from such liquors may be shipped to the United States.

(Approved by the Office of Management and Budget under control number 1512-0497)

[T.D. ATF-198, 50 FR 8550, Mar. 1, 1985, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. ATF-277, 53 FR 45268, Nov. 9, 1988. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-146, 82 FR 1133, Jan. 4, 2017]

PAYMENT OF TAX BY RETURN

§ 26.111 General.

All taxes imposed by 26 U.S.C. 7652(a), and which, under the provisions of this part, are paid in Puerto Rico, shall be paid and collected on the basis of a tax return as provided in this subpart. Any tax which has been paid in accordance with the provisions of this part in effect at the time of such payment, and before provision was made in the part for payment of such tax by return, shall be deemed to have been prepaid as prescribed in this part.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55852, Sept. 28, 1979; T.D. ATF-277, 53 FR 45268, Nov. 9, 1988]

§ 26.112 Returns for deferred payment of tax.

(a) *Returns.* The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1), 5041, or 5051), the payment of which has been deferred under the provisions of §§ 26.80, 26.95 or 26.104 of this part, shall be paid pursuant to a return

on TTB Form 5000.25 prepared in accordance with the instructions on the form.

(b) *Return periods*—(1) *Semimonthly return period*. Except in the case of a taxpayer who qualifies for, and chooses to use, annual or quarterly return periods as provided in paragraph (b)(2) or (b)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (d) of this section.

(2) *Annual return period*. Subject to paragraph (b)(4) of this section, a taxpayer may choose to use an annual return period if the taxpayer was not liable for more than \$1,000 in taxes imposed by 26 U.S.C. 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$1,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar year. However, the taxpayer may not use the annual return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$1,000, and any tax that has not been paid on that date will be due on the 14th day after the last day of the quarterly or semimonthly period in which that date occurs.

(3) *Quarterly return period*. Except as provided in paragraph (b)(2) of this section and subject to paragraph (b)(4) of this section, a taxpayer may choose to use a quarterly return period if the taxpayer was not liable for more than \$50,000 in taxes imposed by 26 U.S.C. 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$50,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first

date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax that has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(4) The following additional rules apply to the annual and quarterly return period procedures under this section:

(i) A “taxpayer” is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number as defined in 26 CFR 301.7701–12;

(ii) “Reasonably expects” means that there is no existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer’s tax liability to exceed the prescribed limit;

(iii) A taxpayer with multiple locations must combine the tax liability for all locations with respect to distilled spirits, wine, or beer tax liability to determine eligibility for the return procedures;

(iv) A taxpayer who has both domestic operations and import transactions must combine the tax liability on the domestic operations and the imports with respect to distilled spirits, wine, or beer tax liability to determine eligibility for the return procedures;

(v) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the return procedures. However, a taxpayer who is eligible for the return procedures, and who is a member of a controlled group that owes \$5 million or more in distilled spirits, wine, or beer excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Quarterly payments via EFT must be transmitted in accordance with section 5061(e);

(vi) A new taxpayer is eligible to use the return procedures in the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure)

in distilled spirits, wine, or beer taxes during that calendar year; and

(vii) If a taxpayer becomes ineligible to use a return procedure described in paragraph (b)(2) or (3) of this section because the taxpayer's liability exceeds \$1,000 or \$50,000, respectively, during a taxable year, that taxpayer may resume that return procedure only after a full calendar year has passed during which the taxpayer's liability did not exceed \$1,000 or \$50,000 as the case may be. A taxpayer may not use an annual or quarterly return procedure during any calendar year in which the taxpayer reasonably expects to be liable for more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure) in distilled spirits, wine, or beer taxes.

(c) *Filing.* (1) The original of TTB Form 5000.25, with remittance covering the full amount of the tax, shall be filed with the appropriate TTB officer not later than the 14th day after the last day of the return period except as provided by paragraph (d) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance are due on the immediately preceding day that is not a Saturday, Sunday, or legal holiday, except as otherwise provided in paragraph (d) of this section.

(2) The tax shall be paid in full by remittance at the time the return is filed, unless the proprietor is required to make remittances by electronic fund transfer in accordance with § 26.112a.

(3) The remittance may be in any form that is authorized to be accepted under the provisions of § 70.61 of this chapter.

(4) When the return and remittance are delivered by U.S. mail to the office of the appropriate TTB officer, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery.

(d) *Special September rule for taxes due by semimonthly return.* (1) *Division of second semimonthly period.* (i) *General.* Except as otherwise provided in paragraph (d)(1)(ii) of this section, the second semimonthly period for the month

of September is divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The taxpayer shall file a return on TTB Form 5000.25, and make remittance, for the period September 16-26, no later than September 29. The taxpayer shall file a return on TTB Form 5000.25, and make remittance, for the period September 27-30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes for which remittance by electronic fund transfer (EFT) is not required by § 26.112a, the second semimonthly period of September is divided into two payment periods, from the 16th day through the 25th day, and from the 26th day through the 30th day. The taxpayer shall file a return on TTB Form 5000.25, and make remittance, for the period September 16-25, no later than September 28. The taxpayer shall file a return on TTB Form 5000.25, and make remittance, for the period September 26-30, no later than October 14.

(2) *Amount of payment—Safe harbor rule.* (i) *General.* Taxpayers are considered to have met the requirements of paragraph (d)(1)(i) of this section if the amount paid no later than September 29 is not less than 11/15ths (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) *Taxpayment not by EFT.* Taxpayers are considered to have met the requirements of paragraph (d)(1)(ii) of this section if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(3) *Weekends and holidays.* If the required taxpayment due date for the period September 16-25 or September 16-26, as applicable, falls on a Saturday or legal holiday, the return and remittance are due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance are due on the immediately following day.

(e) *Default.* Where a taxpayer has defaulted in any payment of tax under this section, during the period of such default and until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment of tax under this section, the tax shall be prepaid by such taxpayer in accordance with the provisions of § 26.113. During such period, distilled spirits, wine, or beer shall not be released from the proprietor's premises before the proprietor has paid the tax thereon. In the event of default, the appropriate TTB officer shall immediately notify the Secretary and the revenue agent at the premises that tax is to be prepaid until further notice, and upon a finding that the revenue will not be jeopardized by resumption of deferred payment or tax under this section, the appropriate TTB officer shall notify the Secretary and the revenue agent that deferred payment may be resumed.

(Approved by the Office of Management and Budget under control number 1512-0497)

(Aug. 16, 1954, Ch. 736, 68A Stat. 775, (26 U.S.C. 6301); June 29, 1956, Ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-277, 53 FR 45268, Nov. 9, 1988, as amended by T.D. ATF-301, 55 FR 47658, Nov. 14, 1990; T.D. ATF-365, 60 FR 33674, June 28, 1995; T.D. ATF-451, 66 FR 21669, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-41, 71 FR 5604, Feb. 2, 2006; T.D. TTB-89, 76 FR 3513, Jan. 20, 2011; T.D. TTB-94, 76 FR 52862, Aug. 24, 2011; T.D. TTB-146, 82 FR 1133, Jan. 4, 2017]

§ 26.112a Payment of tax by electronic fund transfer.

(a) *General.* (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter, shall use a commercial bank in making payment by electronic fund transfer

(EFT) of such taxes during the succeeding calendar year. Payment by cash, check, or money order, of distilled spirits taxes, wine taxes, or beer taxes, as described in § 26.112, is not authorized for a taxpayer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on each type of product for which taxes are paid in accordance with this subpart, taxable withdrawals from premises in the United States, and importation during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises at which tax liabilities are incurred by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(3) A taxpayer who is required by this section to make remittances by EFT, shall make a separate EFT remittance and file a separate tax return, for each premises from which distilled spirits, wine, or beer is withdrawn upon determination of tax.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities

§ 26.112a

27 CFR Ch. I (4–1–23 Edition)

incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter during the previous calendar year, shall notify, in writing, the appropriate TTB officer. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer's bank to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account by no later than the close of business on the last day for filing the return, prescribed in § 26.112 or § 26.113. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, less than five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 27 of this chapter, or less than five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter during the preceding calendar year, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 26.112. Upon filing the first return on which the taxpayer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the taxpayer shall notify the appropriate TTB officer by attaching a written notification to the tax return, stating that no taxes are due by EFT, because the tax liability during the preceding calendar year was less than five million dollars, and that the remittance shall be filed with the tax return.

(c) *Remittance.* (1) Each taxpayer shall show on the tax return, informa-

tion about remitting the tax for that return by EFT and shall file the return with the appropriate TTB officer.

(2) Remittances shall be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer shall be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, any transfer data record furnished to the taxpayer, through normal banking procedures, will serve as the record of payment, and shall be retained as part of required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer a TTB procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service.

(Approved by the Office of Management and Budget under control number 1512-0457)

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF-185, 49 FR 37580, Sept. 25, 1984, as amended by T.D. ATF-245, 52 FR 532, Jan. 7, 1987; T.D. ATF-251, 52 FR 19339, May 22, 1987; T.D. ATF-262, 52 FR 47560, Dec. 15, 1987; T.D. ATF-277, 53 FR 45268, Nov. 9, 1988. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. ATF-479, 67 FR 30798, May 8, 2002; T.D. TTB-91, 76 FR 5479, Feb. 1, 2011; T.D. TTB-146, 82 FR 1133, Jan. 4, 2017]

§ 26.113 Returns for prepayment of taxes.

(a) *General.* Except as provided in §§ 26.66(c), 26.67(b), or 26.68(b), a proprietor must have an approved bond to defer payment of taxes. If a proprietor does not have an approved bond covering the deferred payment of taxes, or if such bond is in an insufficient penal sum, or if there is default by him in any payment of tax under this subpart, liquors shall not be released from bonded storage before the proprietor has paid the tax thereon.

(b) *Remittances.* Remittances submitted to cover prepayment of taxes under this subpart shall be in cash, United States postal money orders, certified checks, or cashier's checks.

(c) *Distilled spirits.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1) are to be paid before distilled spirits may be released for shipment, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, as prescribed in § 26.81.

(d) *Wine.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5041, are to be paid before wine may be withdrawn from bonded storage, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in § 26.96.

(e) *Beer.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5051, are to be paid before beer may be withdrawn from bonded storage, the brewer shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in § 26.105.

(f) *Applicable procedures.* The procedures of § 26.112(c) with respect to returns delivered by United States mail shall apply to returns and remittances filed under the provisions of this section.

(Approved by the Office of Management and Budget under control number 1512-0497)

[20 FR 6077, Aug. 20, 1955]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.113, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

PERMIT TO SHIP LIQUORS AND ARTICLES**§ 26.114 Permit to ship required.**

Before liquors and articles of Puerto Rican manufacture, upon which all internal revenue taxes have been paid or deferred as prescribed in this subpart, may be shipped to the United States, a permit to ship, Form 487B, must be obtained from the Secretary as provided in §§ 26.115 and 26.116.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.115 Application, TTB Form 5170.7.

Application for permit to ship to the United States liquors and articles of Puerto Rican manufacture on which all taxes have been paid or deferred as prescribed in this subpart shall be made by the shipper on TTB Form 5170.7, in sextuple. Each TTB Form 5170.7 will be given a serial number, by the applicant, beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. This serial number will be prefixed by the last two digits of the calendar year, e.g. "61-1." All copies of the form shall be delivered to the revenue agent for execution of his certification thereon and forwarding of all copies to the Secretary within sufficient time to allow for the issuance of the permit and customs inspection as provided in § 26.116.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-146, 82 FR 1133, Jan. 4, 2017]

§ 26.116 Issuance of permit, TTB Form 5170.7, and customs inspection.

If the application has been properly executed and the Secretary, or his delegate, finds that all internal revenue taxes imposed under 26 U.S.C. 7652(a), have been computed under the provisions of this part and have been paid or have been deferred under the applicable provisions of this part, he will execute his permit on all copies thereof, retain one copy of the form, return two copies to the shipper, and send three copies to the district director of customs in Puerto Rico. The shipper will submit

§ 26.117

the two copies of the TTB Form 5170.7 to the district director of customs at least six hours prior to the intended lading of the merchandise. The district director of customs will then inspect the merchandise covered by the TTB Form 5170.7 after which he will execute his certificate on each copy of TTB Form 5170.7 indicating all exceptions. If discrepancies appear indicating differences between the quantity covered by TTB Form 5170.7 and the quantity actually contained in the shipment or the improper tax payment of the merchandise, he will withhold release of the shipment and notify the Secretary of such discrepancies. Thereupon, such discrepancies must be corrected in the shipping documents and additional tax paid, if required, prior to release of the merchandise. The district director of customs, upon release of the merchandise for shipment, will retain one copy of the TTB Form 5170.7, return two copies to the shipper, and send two copies to the district director of customs at the port of arrival in the United States, one of which should be mailed and the other dispatched on the vessel concerned for the guidance of the appropriate TTB officer who will handle the cargo. After the shipment has been cleared by the district director of customs in Puerto Rico, the shipper shall retain one copy of the TTB Form 5170.7 and send one copy thereof, with other shipping documents, to the district director of customs at the port of arrival.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.116, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

PROCEDURE AT PORT OF ARRIVAL

§ 26.117 Action by carrier.

The carrier of the merchandise specified on the TTB Form 5170.7 shall, at the time of unloading at the port of arrival in the United States, segregate and arrange the cases of liquors or articles for convenient customs examina-

27 CFR Ch. I (4–1–23 Edition)

tion and will assume any expense incurred in connection therewith.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 26.118 Inspection by district director of customs at port of arrival.

On receipt of properly executed TTB Form 5170.7 from the shipper and the copies of TTB Form 5170.7 from the district director of customs in Puerto Rico, the district director of customs at the port of arrival shall inspect the merchandise to determine whether the quantity specified on the TTB Form 5170.7 is contained in the shipment. He will then execute his certificate on each copy of TTB Form 5170.7 received and indicate thereon any exceptions found at the time of discharge. The statement of exceptions should show the serial number of each case or other shipping container which sustained a loss, the quantity of liquor reported shipped in such container and the quantity lost. Losses occurring as the result of missing bottles, cases, or other containers should be listed separately from empty containers and containers which have sustained losses due to breakage. Where the statement is made on the basis of bottles missing or lost due to other cause, the number and size of bottles lost should be shown. If the district director of customs finds that the full amount of the taxes due has not been paid, he will require the difference due to be paid prior to release of the merchandise in accordance with the applicable provisions of this part. When the proper inspection of the merchandise has been effected, and any additional taxes found to be due on the liquors or articles collected, the merchandise will be released.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975. T.D. ATF-451, 66 FR 21669, May 1, 2001; T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 26.119 Disposition of forms by district director of customs.

Two copies of the TTB Form 5170.7 will be forwarded to the appropriate TTB officer, and one copy of the form will be retained by the district director

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 26.163

of customs and be available for inspection by appropriate TTB officers.

[T.D. ATF-451, 66 FR 21669, May 1, 2001, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

Subpart F—Liquors and Articles Purchased by Tourists in Puerto Rico

§ 26.125 Taxable.

When liquors and articles subject to tax are brought into the United States by tourists, the tax thereon shall be paid as provided in this subpart.

§ 26.126 Taxpayment in Puerto Rico.

Liquors upon which all Federal internal revenue taxes have been paid in Puerto Rico may be brought into the United States for personal consumption without payment of additional taxes. When distilled spirits, wines, or beer are purchased by a tourist for consumption in the United States, the internal revenue tax due may be paid to the appropriate TTB officer, and a TTB receipt obtained, or the tax may be paid to the U.S. Customs authorities, who will issue a customs receipt. The tax on articles purchased by tourists may be paid in the same manner. The receipt received from the appropriate TTB officer or from the customs officer shall be presented, as required, as evidence that the tax has been paid.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1358, as amended (26 U.S.C. 5061, 5205))

[T.D. ATF-206, 50 FR 23954, June 7, 1985, as amended by T.D. ATF-251, 52 FR 19339, May 22, 1987; T.D. TTB-91, 76 FR 5479, Feb. 1, 2011]

§ 26.128 Taxpayment at port of arrival.

If the internal revenue tax on liquors and articles is not paid in Puerto Rico, it shall be paid by the tourist at the port of arrival prior to release of the liquors or articles from customs custody. The tax may be paid to an appropriate TTB officer, and a TTB receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to an appropriate TTB officer, the director of customs will notify the appropriate TTB officer of the amount of tax due. On payment of the tax to

the director of customs, or on submission of the TTB receipt for the tax, the director of customs will release the liquors or articles.

[T.D. ATF-251, 52 FR 19339, May 22, 1987, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001; T.D. TTB-91, 76 FR 5479, Feb. 1, 2011]

Subpart G—Closures for Distilled Spirits From Puerto Rico

§ 26.135 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part, prior to shipment to the United States.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23954, June 7, 1985]

§ 26.136 Affixing closures.

Each container of distilled spirits having a capacity of one gallon (3.785 liters) or less must have a closure or other device securely affixed to the container. The closure or other device must be constructed in such a manner as to require breaking in order to gain access to the contents of the container.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. TTB-119, 79 FR 17033, Mar. 27, 2014]

Subpart H—Records and Reports of Liquors From Puerto Rico

§ 26.163 General requirements.

Except as provided in § 26.164, every person, other than a tourist, bringing liquor into the United States from Puerto Rico shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with part 31¹ of this chapter: *Provided*, That if the person who is responsible for release of the liquors from customs custody does not take physical possession of the liquors, he

¹(“Alcohol Beverage Dealers”)

§ 26.164

shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512-0352)

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

[T.D. ATF-2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-25, 70 FR 19883, Apr. 15, 2005]

§ 26.164 Proprietors of taxpaid premises.

Transactions involving the bringing of liquors into the United States from Puerto Rico by proprietors of distilled spirits plants in the United States qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of such premises in the United States.

[T.D. 6402, 24 FR 6090, July 30, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-198, 50 FR 8551, Mar. 1, 1985]

§ 26.164a Package gauge record.

When required in this part, with respect to Puerto Rican spirits, a package gauge record shall be prepared to show:

- (a) The date prepared;
- (b) The related transaction form and its serial number;
- (c) The producer or rectifier (processor) of the spirits, and his name, address, and plant registration number; and
- (d) For each package, the:
 - (1) Package identification or serial number;
 - (2) Kind of spirits;
 - (3) Gross weight;
 - (4) Tare;
 - (5) Net weight;
 - (6) Proof gallons; and

27 CFR Ch. I (4-1-23 Edition)

- (7) Proof.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985]

§ 26.165 Certificate of effective tax rate computation.

(a) Where distilled spirits of Puerto Rican manufacture which contain eligible wine or eligible flavors are to be tax determined for shipment to the United States or are to be shipped to the United States without payment of tax for transfer from customs custody to the bonded premises of a distilled spirits plant, the consignor shall prepare a certificate of effective tax rate computation showing the:

- (1) The serial number of TTB Form 5110.31 or 5110.51;
- (2) Elements necessary to compute the effective tax rate in accordance with § 26.79a as follows—
 - (i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);
 - (ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and
 - (iii) Proof gallons of distilled spirits derived from each eligible flavor;
- (3) Date of the statement of eligibility for each eligible flavor (see § 26.50a).
- (4) Effective tax rate applied to the product.
- (5) Signature and title of the consignor.

(b) If the spirits are tax determined for shipment to the United States, the proprietor shall retain the certificate for a period of not less than three years after the last tax determination to which the certificate is applicable. If the spirits are shipped to the United States for transfer from customs custody to the bonded premises of a distilled spirits plant, the proprietor shall forward the original to the consignee

distilled spirits plant in the United States and retain a copy for his files.

(Approved by the Office of Management and Budget under control number 1512-0203)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1366, as amended (26 U.S.C. 5232); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18067, Apr. 30, 1990. Re-designated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

Subpart I—Claims for Drawback on Eligible Articles From Puerto Rico

SOURCE: T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, unless otherwise noted.

§ 26.170 Drawback of tax.

Any person who brings eligible articles into the United States from Puerto Rico may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

§ 26.171 Claimant registration.

Any person filing claim for drawback of tax on eligible articles brought into the United States from Puerto Rico must register annually as a nonbeverage domestic drawback claimant. Registration will be accomplished when the claimant submits the first drawback claim for each year, along with the required supporting data for the claim, under subpart G of part 17 of this chapter. For purposes of registration, subpart C part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States, and each business location from which entry of eligible articles is caused or effected shall be treated as a place of manufacture.

[T.D. TTB-79, 74 FR 37405, July 28, 2009]

§ 26.172 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico and intending to file monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been

reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF-379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001]

§ 26.173 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer will allow the drawback at \$1 less than the rate applicable under 26 U.S.C. 7652(f). Claims for products manufactured in Puerto Rico must be filed separately from claims filed under part 17 of this chapter for products manufactured in the United States.

(b) *Information on claims.* The claim must set forth the following:

- (1) [Reserved]
- (2) That the eligible articles brought into the United States on which drawback is claimed are fully tax paid or tax-determined;
- (3) That the eligible articles on which drawback is claimed are nonbeverage products; and
- (4) That the eligible articles were manufactured in Puerto Rico in compliance with an approved formula in accordance with § 26.51.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

- (1) The claimant's employer identification number, as required by §§ 17.31 and 17.32 of this chapter; and

§ 26.174

27 CFR Ch. I (4–1–23 Edition)

(2) A description of each eligible article as follows:

- (i) Name and type of each product;
- (ii) Name and address of the manufacturer of each product;
- (iii) Formula number;
- (iv) Alcohol content of each product;
- (v) Quantity of each product;
- (vi) Proof gallons of distilled spirits contained in each product;
- (vii) Date of entry of the eligible product into the United States, and
- (viii) The serial number of each TTB Form 487-B (5170.7) covering such articles shipped to the United States.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. ATF-451, 66 FR 21669, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-79, 74 FR 37406, July 28, 2009]

§ 26.174 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from Puerto Rico shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

- (1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (c) of this section.

(c) *Evidence of taxpayment of distilled spirits.* All shipments of eligible articles from Puerto Rico to the United States shall be supported by the vendor's commercial invoice which must bear a certification as to taxpayment by the person who determined or paid the tax, and include the following information:

- (1) The name and address of vendor;
- (2) The number of the applicable invoice;
- (3) The serial or package identification number of the container;
- (4) Name, type, and formula number of the product;
- (5) The kind of spirits, proof, and proof gallons in the container; and
- (6) The serial number of each Form 487-B (5170.7) covering such articles shipped to the United States.

(d) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001]

Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

SOURCE: T.D. ATF-199, 50 FR 9198, Mar. 1, 1985, unless otherwise noted. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001.

§ 26.191 Notice of shipment.

At least 5 business days before shipment, each proprietor of a distilled spirits plant in Puerto Rico who intends to ship denatured spirits to the United States in containers larger than 5 gallons, and each person in Puerto Rico who intends to ship products made with denatured spirits to the United States in containers larger than 5 gallons shall notify the chemist of the Treasury of Puerto Rico of the intent to ship.

(Approved by the Office of Management and Budget under control number 1512-0336)

[T.D. ATF-199, 50 FR 9198, Mar. 1, 1985, T.D. ATF-199, 50 FR 20099, May 14, 1985]

§ 26.192 Samples and analysis.

The chemist of the Treasury of Puerto Rico may take samples of the product to be shipped in order to determine that it is eligible for tax-free status.

§ 26.193 Notification of tax liability.

(a) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, before the shipment is made, the chemist will immediately notify the shipper that the article is subject to tax, payable in accordance with §§ 26.107 through 26.110.

(b) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, after the shipment is made, the chemist will immediately notify the shipper that the tax shall be paid immediately in accordance with § 26.113. The chemist will also notify the appropriate TTB officer.

[T.D. ATF-199, 50 FR 9198, Mar. 1, 1985, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.194 Detention of articles.

(a) Upon receiving a notification in accordance with § 26.193(b), the appropriate TTB officer will detain the article in accordance with part 20 of this chapter or seize the article in accordance with part 72 of this chapter.

(b) After the shipper furnishes proof that the tax was paid in accordance with § 26.113, the appropriate TTB officer will release the article to the consignee.

[T.D. ATF-199, 50 FR 9198, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to the Bonded Premises of a Distilled Spirits Plant

AUTHORITY: Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232).

SOURCE: T.D. ATF-62, 44 FR 71714, Dec. 11, 1979, unless otherwise noted.

§ 26.196 General.

Under the provisions of this subpart and § 26.86, distilled spirits brought into the United States from Puerto Rico in bulk containers may be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax, if any, imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof; and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to applicable provisions of part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which

§ 26.197

spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody and the person bringing the spirits into the United States shall thereupon be relieved of liability for the tax.

[T.D. ATF-62, 44 FR 71714, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.197 Furnishing formula to consignee.

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

(Approved by the Office of Management and Budget under control number 1512-0204)

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

§ 26.198 [Reserved]

§ 26.199 Application and permit to ship, TTB Form 5110.31.

Before spirits of Puerto Rican manufacture may be shipped to the United States without payment of tax for withdrawal from customs custody and transfer to the bonded premises of a distilled spirits plant, an application by the consignor on TTB Form 5110.31 for permit to ship must be approved by the Secretary. All copies of the application (original and five copies) shall be delivered to the revenue agent.

[T.D. ATF-62, 44 FR 71714, Dec. 11, 1979, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 26.199a Action by revenue agent.

(a) *Gauge.* Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall record the quantity and proof of the spirits gauged on TTB Form 5110.31. If the spirits are in packages, the revenue agent shall prepare in sextuplicate a

27 CFR Ch. I (4-1-23 Edition)

package gauge record according to § 26.164a, attach the package gauge record to TTB Form 5110.31, and dispose of the form (and any attachments) according to the instructions thereon.

(b) *Sealing bulk conveyances.* When a shipment is made in a tank, van, or other bulk conveyance (other than barrels, drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent in such manner as will prevent unauthorized removal of spirits without detection.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.199b Issuance and disposition of permit.

When the Secretary receives an application on TTB Form 5110.31 and he finds that the applicant is in compliance with law and regulations, he will execute the permit to ship on all copies of TTB Form 5110.31, retain one copy, and any accompanying package gauge record as provided in § 26.164a, and return the remaining copies to the consignor who shall distribute them in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

§ 26.199c Action by carrier.

The carrier of the spirits specified on the TTB Form 5110.31 shall, at the time of unloading at the port of arrival in the United States, segregate and arrange the containers of spirits of convenient customs examination and shall assume any expense incurred in connection therewith.

§ 26.199d Customs inspection and release.

On receipt of a properly executed TTB Form 5110.31 from the consignor, the customs officer at the port of arrival in the United States shall inspect the corresponding shipment of spirits:

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 26.200

(a) If a shipment is in a bulk conveyance, and:

(1) The seals are intact, he shall release the shipment; or

(2) If the seals are broken, he shall, before release of the spirits, affix customs seals.

(b) If a shipment in packages does not arrive in a sealed conveyance, the packages shall be inspected, and if it appears that any package has sustained a loss, the package shall be weighed and its new gross weight shall be entered in contrasting color on the package gauge record attached to the related TTB Form 5110.31. The serial numbers of any seals affixed by the customs officers shall be reported on TTB Form 5110.31 under remarks with an explanation and description of any evidence of loss. After completing his inspection, the customs officer shall execute his certificate on each copy of TTB Form 5110.31 and show thereon any exceptions found at the time of his release for transfer of the spirits to the bonded premises of a distilled spirits plant. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall then release the spirits to the consignee's representative and distribute all forms in accordance with the instructions on TTB Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 26.199e [Reserved]

§ 26.199f Consignee premises.

(a) *General.* When Puerto Rican spirits are received from customs custody under the provisions of this subpart, the consignee proprietor shall execute the certificate of receipt on TTB Form 5110.31 and examine all containers for evidence of loss. If it appears that spirits were lost by theft or unusual event, the proprietor shall determine the quantity of spirits lost and report the loss according to § 19.462 of this chapter.

(b) *Packages.* Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge.

(c) *Distribution of forms.* The proprietor shall keep and send copies according the instructions on the form.

(Approved by the Office of Management and Budget under control numbers 1512-0200 and 1512-0250)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001; T.D. TTB-92, 76 FR 9171, Feb. 16, 2011]

Subpart J—Products Coming Into the United States From the Virgin Islands

§ 26.200 Taxable status.

(a) Liquors coming into the United States from the Virgin Islands, except as provided in § 26.201, are subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like liquors. Articles coming into the United States from the Virgin Islands, except as provided in § 26.201, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) The excise taxes collected on distilled spirits and articles containing distilled spirits shall be deposited into the Treasury of the Virgin Islands only if at least 92 percent of the alcoholic content of such product is rum. The amount deposited into the Treasury of the Virgin Islands shall not exceed the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of such distilled spirits or article containing distilled spirits coming into the United States. Such excise tax payments to the Treasury of the Virgin Islands will be reduced by one percent and the estimated amount of refunds or credits, and may be further reduced by certain amounts deposited to the U.S. Treasury as miscellaneous receipts. The moneys so transferred and paid over shall constitute a separate fund in the Treasury of the Virgin Islands, and may be expended as the Virgin Islands legislature may determine.

(c) Except for products described in 26 U.S.C. 7652(c), no excise taxes shall be deposited into the Treasury of the Virgin Islands if an excise tax subsidy is provided by the Virgin Islands that

§ 26.200

27 CFR Ch. I (4–1–23 Edition)

is of a kind different from, or in an amount per value or volume of production greater than, any subsidy offered by the Virgin Islands to industries manufacturing products not subject to Federal excise tax.

(d) Internal revenue taxes payable on liquors brought into the United States from the Virgin Islands are collected by U.S. Customs and Border Protection (CBP) in accordance with CBP requirements. The tax must be paid on the basis of a return, and the customs form (including any electronic transmissions) by which the liquors are duty- and tax-paid to CBP will be treated as a return for purposes of this part. The person bringing such liquors into the United States, if filing electronically, must file the information specified in this section with the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. The following information is required as described under this section:

(1) The permit number of the valid importer permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20 and 1.58, and the importer's name, address, and employer identification number (EIN) associated with that permit;

(2) The TTB-assigned number of the valid certificate of label approval (COLA), if applicable, as required by 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, and 27 CFR 7.31 in the case of malt beverages;

(3) The name and address of the ultimate consignee;

(4) The quantity of each product (for distilled spirits, in proof liters or proof gallons; for wine and beer, in liters or gallons); and

(5) Information identifying each product for Internal Revenue Code and/or FAA Act purposes.

(e) Distilled spirits, natural wines, and beer in bulk containers may be released from customs custody without payment of tax under the provisions of subpart Oa of this part and thereafter removed subject to tax from, respectively, a distilled spirits plant, bonded wine cellar, or brewery. The tax will be collected and paid under the provisions of parts 19, 24, and 25 of this chapter, respectively.

(f)(1) Except as provided in paragraph (f)(2) of this section, in the case of an entry for warehousing (that is, products transferred directly to a customs bonded warehouse or foreign trade zone), the last day for payment of the tax shall not be later than the 14th day after the last day of the semimonthly period during which the products are removed from the first such warehouse, even if the products have been removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone.

(2) Paragraph (f)(1) of this section does not apply to any distilled spirits, wines, or beer entered for warehousing and then removed for transfer to another customs bonded warehouse or foreign trade zone that is shown to the satisfaction of the Secretary to be destined for export.

(g) Regardless of the method of filing, the person bringing the liquors into the United States must retain as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation. These records must be retained in accordance with the record retention requirements of § 26.276, and the records must be made available upon request of the appropriate TTB officer or a customs officer.

(26 U.S.C. 5001, 5054, 5061, 5232, 5364, 5418, 7652)

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. ATF-175, 49 FR 20804, May 16, 1984, as amended by T.D. ATF-206, 50 FR 15888, Apr. 23, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-145, 81 FR 94200, Dec. 22, 2016; T.D. TTB-159, 85 FR 33542, June 2, 2020]

§ 26.201 Products exempt from tax.

(a) *General.* Industrial spirits, denatured spirits, and products made with denatured spirits in the Virgin Islands may be brought into the United States without incurring tax liability imposed by 26 U.S.C. 5001 or 7652.

(b) *Industrial spirits.* A distiller of industrial spirits who qualifies under regulations issued by the Governor of the Virgin Islands may ship industrial spirits to a tax-free alcohol user in the United States who holds a permit under part 22 of this chapter. Shipments shall be made in accordance with the requirements of subpart O of this part.

(c) *Denatured spirits.* A distiller who qualifies under the regulations issued by the Governor of the Virgin Islands and who denatures spirits in accordance with part 21 of this chapter may ship (1) completely denatured alcohol to anyone in the United States, and/or (2) specially denatured spirits to a dealer or user of specially denatured spirits in the United States or Puerto Rico who holds a permit under part 20 of this chapter. Shipments shall be made in accordance with the requirements of subpart O of this part.

(d) *Products made with denatured spirits.* A person in the Virgin Islands who manufactures products with completely denatured alcohol or specially denatured spirits in accordance with the requirements of part 20 of this chapter and regulations issued by the Governor of the Virgin Islands may ship those products to the United States in accordance with the requirements of subpart O of this part.

[T.D. ATF-199, 50 FR 9199, Mar. 6, 1985]

§ 26.201a Production in the Virgin Islands for tax-free shipment to the United States.

(a) *Authority of the Governor to issue regulations.* The Governor of the Virgin Islands, or his duly authorized agents, are authorized to issue or adopt such regulations (and to approve such bonds, and to issue, suspend, or revoke such permits, as may be required by such regulations) as are necessary to insure that:

(1) Industrial spirits produced or manufactured in the Virgin Islands and

shipped to the United States free of tax for the purposes authorized in 26 U.S.C. 5214(a) (2) and (3);

(2) Denatured spirits manufactured in the Virgin Islands for shipment to the United States free of tax, and

(3) Products manufactured in the Virgin Islands with denatured spirits, for shipment to the United States free of tax, conform in all respects to the requirements of law and this chapter imposed on like products of domestic manufacture.

(b) *Law and regulations applicable.* Regulations having been issued by the Governor of the Virgin Islands and concurred in by the Secretary of the Treasury of the United States to govern the production, warehousing, and denaturation of spirits and the use of denatured spirits in the manufacture of products for shipment to the United States free of tax, such regulations are applicable in the Virgin Islands and the Virgin Islands are hereby exempted from

(1) All provisions of 26 U.S.C. chapter 51, with the exception of 26 U.S.C. 5314(b) and 5687; and

(2) The provisions of this chapter in respect of the production, bonded warehousing, denaturation, and withdrawal of distilled spirits and the use of denatured spirits in the United States:

Provided, That such exemption shall be effective only to the extent that any amendments or revisions of the regulations issued by the Governor of the Virgin Islands, or his duly authorized agents, are concurred in by the Secretary of the Treasury of the United States or his delegate. Otherwise, all provisions of law as provided in 26 U.S.C. 5314(b), and the provisions of this chapter in respect of the production, bonded warehousing, denaturation, and withdrawal from bond of distilled spirits and denatured spirits and the use of denatured spirits in the manufacture of products shall extend to and apply in the Virgin Islands (i) in respect of the production, bonded warehousing, and withdrawal of spirits for shipment to the United States free of tax for the purposes authorized in 26 U.S.C. 5214(a) (2) and (3), and (ii) in respect of the production, bonded

§ 26.201b

warehousing, and denaturation of spirits, and to the withdrawal and use of denatured spirits, where the denatured spirits or products containing denatured spirits are to be shipped to the United States free of tax.

[T.D. 6402, 24 FR 6090, July 30, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55853, Sept. 28, 1979; T.D. ATF-198, 50 FR 8552, Mar. 1, 1985]

§ 26.201b [Reserved]

§ 26.201c Shipments of distilled spirits, natural wine, and beer to the United States without payment of tax.

Distilled spirits, natural wine, and beer may be brought into the United States from the Virgin Islands in bulk containers without payment of tax for transfer in bond from customs custody to the bonded premises of a distilled spirits plant in the case of distilled spirits, a bonded wine cellar in the case of natural wine, or a brewery in the case of beer. Such shipments are subject to the provisions of subpart Oa of this part.

[T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.202 Requirements of the Federal Alcohol Administration Act.

(a) *General.* The Federal Alcohol Administration Act (FAA Act) and the regulations issued under the FAA Act (parts 1, 4, 5, and 7 of this chapter) provide that any person, except an agency of a State or political subdivision thereof or any officer or employee of any such agency, who brings into the United States from the Virgin Islands distilled spirits, wines, or malt beverages for nonindustrial use must comply with the permit and labeling requirements described in this section. See 27 CFR 1.10 for the definitions of distilled spirits, wine, and malt beverages under the FAA Act. Tourists bringing distilled spirits, wines, or malt beverages into the United States for personal or other noncommercial use are not subject to the provisions of the FAA Act or regulations issued pursuant to the FAA Act (parts 1, 4, 5, and 7 of this chapter).

(b) *FAA Act basic permit.* Any person, except an agency of a State or a polit-

27 CFR Ch. I (4-1-23 Edition)

ical subdivision thereof or any officer or employee of any such agency, who intends to engage in the business of bringing distilled spirits, wines, or malt beverages into the United States from the Virgin Islands must, prior to bringing such products into the United States, obtain an importer's basic permit, in accordance with the requirements of the FAA Act and regulations issued pursuant to the FAA Act, and must file with U.S. Customs and Border Protection (CBP) the number associated with this permit when filing electronically as required under 27 CFR 1.58. Also, as required under § 1.58 of this chapter, if the importer is not filing electronically, the importer must have a copy of the FAA Act basic permit and make it available upon request of the appropriate TTB officer or a customs officer.

(c) *Certificate of label approval.* Any person and any agency of a State or political subdivision thereof or any officer or employee of such agency, removing for commercial purposes containers of distilled spirits, wines, or malt beverages from the Virgin Islands from customs custody for consumption, when filing electronically, must provide the TTB-assigned identification number of the valid certificate of label approval (COLA) for the distilled spirits, wines, or malt beverages with the filing of the customs entry, in accordance with the requirements of 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, or 27 CFR 7.31 in the case of malt beverages. Also, as required under 27 CFR 4.40, 5.51, and 7.31, if the importer is not filing electronically, the importer must provide a copy of the valid COLA to CBP at the time of entry.

(d) *Foreign certificates.* Any person and any agency of a State or political subdivision thereof or any officer or employee of such agency, bringing into the United States from the Virgin Islands for commercial purposes and for consumption containers of distilled spirits or wines that require a certificate under 27 CFR 4.45(a) in the case of wine or 27 CFR 5.52 in the case of distilled spirits must be in possession of

the certificate (and accompanying invoice, if applicable) at the time of release from customs custody.

(Secs. 3, 5, 49 Stat. 978, as amended, 981, as amended; 27 U.S.C. 203, 205)

[T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.203 Containers of 1 gallon (3.785 liters) or less.

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of subpart P of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5301))

[T.D. ATF-34, 41 FR 46864, Oct. 26, 1976]

§ 26.203a Containers in excess of 1 gallon (3.785 liters).

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity in excess of 1 gallon (3.785 liters), are required to be marked in accordance with customs regulations (19 CFR chapter I).

[T.D. 6695, 28 FR 12936, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46864, Oct. 26, 1976; T.D. ATF-206, 50 FR 23955, June 7, 1985]

§ 26.204 Regauge.

Distilled spirits withdrawn from insular bonded warehouses for shipment to the United States may be gauged at the time of withdrawal by an insular gauger. When such gauges are made, a record of gauge shall be prepared by the insular gauger showing the name of the distiller; and the serial number, the proof of the spirits, and the wine and proof gallon contents of each package gauged. The report of gauge shall be attached to the certificate prescribed in § 26.205.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.204a Verification of eligible wines and eligible flavors.

(a) Any person who, after December 1, 1990, brings into the United States

from the Virgin Islands any distilled spirits on which the tax is to be paid or determined at an effective tax rate based in part on the alcohol content derived from eligible flavors or eligible wines shall, before the first tax determination at that rate, request and receive a statement of eligibility for each wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the person bringing in the distilled spirits shall submit to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) An 8-ounce sample of each distilled spirits, wine and flavor used in the product;

(2) A statement of composition of each flavor, listing—

(i) The name and percentage of alcohol by volume of the flavor; and

(ii) The name and quantity of each ingredient used in the manufacture of the flavor; and

(3) A statement of the kind and alcoholic content of each wine.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18067, Apr. 30, 1990, as amended by T.D. TTB-44, 71 FR 16944, Apr. 4, 2006]

§ 26.205 Certificate.

(a) Every person bringing liquors or articles under this part into the United States from the Virgin Islands, except tourists, shall obtain a certificate in the English language from the manufacturer for each shipment showing the following information:

(1) The name and address of the consignee.

(2) The kind and brand name.

(3) The quantity thereof as follows—

(i) If distilled spirits, the proof gallons or liters and degree of proof;

(ii) If wine, the taxable grade and wine gallons;

(iii) If beer, the gallons (liquid measure) and the percentage of alcohol by volume; and

§ 26.206

(iv) If articles, the kind, quantity, and proof of the liquors used therein.

(4) For liquors manufactured under a formula—

(i) The number and date of the approved formula;

(ii) A declaration that the liquors have been manufactured in accordance with the approved formula; and

(iii) The name and address of the person filing the formula.

(5) The name and address of the producer.

(6) For liquors and articles containing liquors produced outside of the Virgin Islands, the country of origin for each such liquor.

(7) For distilled spirits, a certification by the insular gauger as to whether they were regauged when withdrawn from the insular bonded warehouse and, if regauged, whether they were at the time of withdrawal at the proof indicated on the attached record of gauge.

(8) For distilled spirits which contain eligible wine or eligible flavors, the effective tax rate applied to the product and the elements necessary to compute the effective tax rate in accordance with § 26.262a as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each;

(iii) Proof gallons of distilled spirits derived from eligible flavors; and

(iv) On or after December 1, 1990, the name of the manufacturer, formula number from TTB F 5530.5 (1678) or 5150.19 and date of approval or the date of the statement of eligibility for each eligible flavor (See § 26.204a); and

(v) After December 1, 1990, the date of the statement of eligibility for each eligible wine.

(b) The person bringing the liquors into the United States must file the information required under § 26.200, in accordance with that section.

(c) The person bringing liquors into the United States from the Virgin Islands must maintain a copy of the certificate described in paragraph (a) of this section along with records to substantiate the information on the certificate, including information re-

27 CFR Ch. I (4–1–23 Edition)

quired under § 26.204, in accordance with the record retention requirements of § 26.276 and must make them available upon request of the appropriate TTB officer or a customs officer.

(d) For distilled spirits, natural wine, or beer withdrawn from customs custody under the provisions of subpart Oa of this part, the importer must furnish a copy of the certificate to the proprietor of the receiving distilled spirits plant, bonded wine cellar, or brewery.

(Approved by the Office of Management and Budget under control number 1513-0064)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1366, as amended (26 U.S.C. 5232); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18067, Apr. 30, 1990. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.206 Marking packages and cases.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the manufacturer;

(b) The brand name and kind of liquor; and

(c) The wine and proof gallon contents; or, for bottles filed according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits.

[T.D. ATF-43, 42 FR 30836, June 17, 1977]

§ 26.207 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed, obscured or obliterated before the contents thereof have been removed.

[T.D. ATF-198, 50 FR 8552, Mar. 1, 1985]

§ 26.208 Craft Beverage Modernization Act Tax benefits.

The procedures set forth in 27 CFR part 27, subpart P, apply to the application of Craft Beverage Modernization Act tax benefits for products produced in and imported from the Virgin Islands and entered for consumption subject to tax, except as subpart P would be manifestly incompatible with the intent of the other regulations in this part.

[T.D. TTB-186, 87 FR 58031, Sept. 23, 2022]

§ 26.209 Samples.

The appropriate TTB officer may require samples of liquors and articles to be submitted whenever desired for laboratory analyses in order to determine the rate of tax applicable thereto.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

DEALER REGISTRATION AND
RECORDKEEPING

§ 26.210 Liquor dealer registration and recordkeeping.

Every person bringing liquors into the United States from the Virgin Islands who sells, or offers for sale, such liquors must register and keep records as a wholesale dealer in liquor or as a retail dealer in liquor in accordance with part 31 of this chapter.

(26 U.S.C. 5121, 5122, 5123, 5124)

[T.D. TTB-79, 74 FR 37406, July 28, 2009]

§ 26.211 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, every person bringing distilled spirits into the United States from the Virgin Islands who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, must register and keep records as a dealer in liquors at the place where the warehouse receipts are sold, or offered for sale, in accordance with part 31 of this chapter.

(26 U.S.C. 5121, 5122, 5123, 5124)

[T.D. TTB-79, 74 FR 37406, July 28, 2009]

Subpart K—Formulas for Products From the Virgin Islands

SOURCE: T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, unless otherwise noted.

§ 26.220 Formulas for liquors.

(a) *Distilled spirits products.* Persons in the Virgin Islands who ship distilled spirits beverage products to the United States shall comply with the formula requirements of part 5 of this chapter. If any product contains liquors made outside of Virgin Islands, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 5110.38, in accordance with § 26.224.

(b) *Wine.* Persons in the Virgin Islands who ship wine to the United States shall comply with the formula requirements of part 24 of this chapter. If any wines contains liquors made outside of the Virgin Islands, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on TTB Form 698 Supplemental, in accordance with § 26.224.

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF-198, 50 FR 8552, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-91, 76 FR 5479, Feb. 1, 2011]

§ 26.221 Formulas for articles, eligible articles and products manufactured with denatured spirits.

(a) *Formulas for articles and eligible articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, and the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine. Formulas and samples for eligible articles are required in accordance with subpart F of part 17 of this chapter.

(b) *Formulas for products manufactured with denatured spirits.* Products manufactured with denatured spirits shall be manufactured in accordance with the formula requirements of part 20 of this

§ 26.222

27 CFR Ch. I (4–1–23 Edition)

chapter for similar products made in the United States.

(1) Products may be made with completely denatured alcohol for sale under brand names under part 20 of this chapter without obtaining an approved formula. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the product is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

(2) Products made with specially denatured spirits shall be made in accordance with (i) a general-use formula approved as provided in part 20 of this chapter, or (ii) an approved formula on Form 5150.19, or previously approved on TTB Form 1479-A or 27-B Supplemental.

(c) *Formulas required.* Formulas required by this section shall be submitted on Form 5150.19, except that formulas for eligible articles shall be submitted on Form 5154.1 (formerly 1678). Formulas shall be submitted in accordance with § 26.224. Any formula for an eligible article approved on Form 5150.19 prior to October 23, 1986, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF-199, 50 FR 9199, Mar. 6, 1985; T.D. ATF-263, 52 FR 46595, Dec. 9, 1987; T.D. ATF-379, 61 FR 31427, June 20, 1996. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.222 Still wines containing carbon dioxide.

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found

that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the appropriate TTB officer. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in triplicate to the appropriate TTB officer, who shall retain one copy, forward one copy to the Commissioner of Finance of the Virgin Islands, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by insular agents.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C 5041))

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984]

§ 26.223 Changes of formulas.

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

§ 26.224 Filing and disposition of formulas.

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

[T.D. ATF-451, 66 FR 21670, May 1, 2001]

§ 26.225 Previously approved formulas.

Any formula approved on Form 27-B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27-B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the notice requirement of § 26.222 shall not apply.

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

Subpart L—Closures for Distilled Spirits From the Virgin Islands

GENERAL

§ 26.230 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or determined under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23955, June 7, 1985]

§ 26.231 Affixing closures.

Each container of distilled spirits having a capacity of one gallon (3.785 liters) or less must have a closure or other device securely affixed to the container. The closure or other device must be constructed in such a manner as to require breaking in order to gain access to the contents of the container.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. TTB-119, 79 FR 17033, Mar. 27, 2014]

Subpart M—Procedure at Port of Entry From the Virgin Islands

§ 26.260 Required information.

Persons (except tourists) bringing liquors from the Virgin Islands into the United States must file with U.S. Customs and Border Protection, at the time of filing the entry or entry summary, as appropriate, the information

required under § 26.200, in accordance with that section, and provide any information collected by any gauge under § 26.204 and any information contained in the certificate described in § 26.205, upon request, in accordance with the provisions of §§ 26.204 and 26.205(c).

[T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.261 [Reserved]**§ 26.262 Determination of tax on distilled spirits.**

(a) If the certificate required by § 26.205 covers distilled spirits, and the distilled spirits are not being transferred under subparts O or Oa of this part, the tax imposed by 26 U.S.C. 7652 which provides for a tax equal to the tax imposed by 26 U.S.C. 5001 will be collected on each proof gallon, and fractional part thereof, contained in the shipment.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2 ½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 26.262a. The effective tax rate established will be applied to each withdrawal or other disposition of the distilled spirits within the United States.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010), Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-297, 55 FR 18068, Apr. 30, 1990. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.262a Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits

§ 26.263

27 CFR Ch. I (4–1–23 Edition)

containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:
(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD		
Distilled spirits	2249.1	proof gallons.
Eligible wine (14% alcohol by volume).	2265.0	wine gallons.
Eligible wine (19% alcohol by volume).	1020.0	wine gallons.
Eligible flavors	100.9	proof gallons.

$$\frac{2249.1(\$13.50) + 2265.0(\$1.07) + 1020(\$1.57) + 16.6^1(\$13.50)}{2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38)} = \frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6} = \frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512–0352)

(Sec. 6, Pub. L. 96–598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF–297, 55 FR 18068, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52741, Dec. 21, 1990]

§ 26.263 Determination of tax on beer.

If the certificate prescribed in § 26.205 covers beer, the beer tax will be col-

lected at the rates imposed by 26 U.S.C. 5051.

(68A Stat. 611, as amended; 26 U.S.C. 5051, 7652)

[T.D. TTB–145, 81 FR 94201, Dec. 22, 2016]

¹Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the

total proof gallons in the batch (100.9 – (2½%) × 3,371.8 = 16.6).

§ 26.264 Determination of tax on wine.

If the certificate prescribed in § 26.205 covers wine, the wine tax will be collected at the rates imposed by section 5041, Internal Revenue Code, as amended.

(68A Stat. 609, as amended; 26 U.S.C. 5041, 7652)

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.265 Determination of tax on articles.

Where articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. The quantities and kinds of liquors will be shown on the certificate prescribed in § 26.205.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001, 5007))

[T.D. ATF-62, 44 FR 71717, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.266 Tax payment.

The internal revenue tax on liquors (except spirits transferred under subparts O or Oa of this part) and articles coming into the United States from the Virgin Islands shall be paid to the district director of customs at the port of entry, as provided by customs regulations. (19 CFR Ch. I)

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-198, 50 FR 8554, Mar. 1, 1985]

§ 26.267 Payment of tax by electronic fund transfer.

(a) Each person bringing liquors and articles into the United States from the Virgin Islands who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 27 of this chapter, a gross amount equal to or exceeding five million dollars in wine taxes com-

binning tax liabilities incurred under this part and parts 24 and 27 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 27 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT), as defined in paragraph (c) of this section, of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for a person bringing liquors and articles into the United States from the Virgin Islands who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on all taxable withdrawals from premises in the United States and importations (including products of the same tax class brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted.

(b) For the purposes of this section, a “person” includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words “at least 80 percent” shall be replaced by the words “more than 50 percent” in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a “controlled group of corporations” apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one person for the purpose of determining who is required to make remittances by EFT.

(c) Electronic fund transfer or EFT means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an

§ 26.272

electronic terminal, telephonic instrument, or computer of magnetic tape, so as to order, instruct, or authorize a financial institution to either debit or credit an account, in accordance with procedures established by the U.S. Customs Service.

(d) Each person who is required by this section to make remittances by EFT shall make the EFT remittance in accordance with the requirements of the U.S. Customs Service.

(Approved by the Office of Management and Budget under Control Number 1512-0457)

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

[T.D. ATF-245, 52 FR 532, Jan. 7, 1987, as amended by T.D. ATF-479, 67 FR 30798, May 8, 2002]

Subpart N—Records and Reports of Liquors From the Virgin Islands

RECORD AND REPORT OF LIQUORS BROUGHT INTO THE UNITED STATES

§ 26.272 General requirements.

Except as provided in § 26.273, every person, other than a tourist, bringing liquors into the United States from the Virgin Islands shall keep such records and render reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provisions of part 31 of this chapter. Any importer who is responsible for release of the liquors from customs custody and who does not take physical possession of the liquors shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under

27 CFR Ch. I (4-1-23 Edition)

this part with respect of liquors while in customs custody.

(Approved by the Office of Management and Budget under control number 1512-0352)

(72 Stat. 1342, 1345; 26 U.S.C. 5114, 5124)

[T.D. ATF-2, 37 FR 22739, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984. Redesignated and amended by T.D. ATF-459, 66 FR 38552, July 25, 2001; T.D. TTB-25, 70 FR 19883, Apr. 15, 2005]

§ 26.273 Proprietors of taxpaid premises.

Transactions involving the bringing of liquors into the United States from the Virgin Islands by proprietors of distilled spirits plants, bonded wine cellars, and breweries in the United States qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of such premises in the United States.

[T.D. 6478, 25 FR 6203, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.273a Transfer record.

(a) *Distilled spirits.* The transfer record for Virgin Islands spirits prescribed in § 26.301 shall show the:

- (1) Date prepared;
- (2) Serial number of the transfer record, beginning with “1” each January 1;
- (3) Name of the proprietor and TTB-issued IRC registry number of the plant to which consigned;
- (4) Name and address of the consignor;
- (5) Kind of spirits;
- (6) Name of the producer;
- (7) Age (in years, months and days) of the spirits;
- (8) Proof of the spirits;
- (9) Type and serial number of containers;
- (10) Proof gallons of spirits in the shipment; and
- (11) The customs entry number and amount of duty paid.

(b) *Natural wine.* The transfer record prescribed in § 26.301 must identify the importer and show the following:

- (1) The date prepared;
- (2) The name and address of the bonded wine cellar receiving the wine from customs custody;

(3) The TTB-issued IRC registry number of the bonded wine cellar receiving the wine from customs custody;

(4) The number of containers transferred and quantity of wine in each container;

(5) The country of origin of the wine;

(6) The customs entry number and amount of duty paid;

(7) The kind of wine; and

(8) The producer.

(c) *Beer*. The transfer record prescribed in § 26.301 must identify the importer and show the following:

(1) The date prepared;

(2) The name and address of the brewery receiving the beer from customs custody;

(3) The TTB-issued IRC registry number of the brewery receiving the beer from customs custody;

(4) The number of containers transferred and quantity of beer in each container;

(5) The country of origin of the beer;

(6) The customs entry number and amount of duty paid;

(7) The kind of beer; and

(8) The brewer.

(Approved by the Office of Management and Budget under control number 1513-0064)

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

[T.D. TTB-145, 81 FR 94201, Dec. 22, 2016]

§ 26.273b Package gauge record.

When required in this part with respect to Virgin Islands spirits, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number;

(c) The producer, his name and address; and

(d) For each package, the:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Tare;

(5) Net weight;

(6) Proof gallons; and

(7) Proof.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8554, Mar. 1, 1985]

FILING AND RETENTION OF RECORDS AND REPORTS

§ 26.275 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate TTB or customs officers desiring to examine the files or delay in the timely submission of documents.

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, either loose-leaf or book records may be maintained for the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills or lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF-116, 47 FR 51573, Nov. 16, 1982, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]

§ 26.276 Retention.

All records required by this part, documents or copies of documents supporting these records (including data filed with U.S. Customs and Border Protection (CBP) pursuant to CBP requirements), and file copies of reports required by this part, must be retained for not less than three years from the date the shipment is released from customs custody into the United States, and during this period must be made available upon request of the appropriate TTB officer or a customs officer. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not

§ 26.277

more than three years in any case where the appropriate TTB officer determines retention necessary or advisable. (For record retention periods under CBP regulations, see 19 CFR part 163.) Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(Approved by the Office of Management and Budget under control numbers 1513-0064 and 1513-0088)

[T.D. TTB-145, 81 FR 94202, Dec. 22, 2016]

§ 26.277 [Reserved]

Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

SOURCE: T.D. ATF-199, 50 FR 9199, Mar. 6, 1985, unless otherwise noted. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001.

§ 26.291 General.

(a) Industrial spirits may be shipped into the United States to the holder of a permit under part 22 of this chapter, in accordance with § 26.292 through 26.294 and regulations issued by the Governor of the Virgin Islands.

(b)(1) Specially denatured spirits may be shipped into the United States to the holder of a permit under part 20 of this chapter, in accordance with §§ 26.292 through 26.294 and regulations issued by the Governor of the Virgin Islands.

(2) Completely denatured alcohol may be shipped to anyone in the United States in accordance with §§ 26.295 through 26.296 and regulations issued by the Governor of the Virgin Islands.

(3) Denatured spirits shall be denatured in accordance with part 21 of this chapter and regulations issued by the Governor of the Virgin Islands.

(c) Products made with denatured spirits may be shipped to anyone in the United States in accordance with §§ 26.295 through 26.296 and regulations issued by the Governor of the Virgin Islands. These products are also subject

27 CFR Ch. I (4-1-23 Edition)

to the requirements of § 26.221 of this part.

[20 FR 6077, Aug. 20, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

SHIPMENT OF INDUSTRIAL SPIRITS AND SPECIALLY DENATURED SPIRITS

§ 26.292 Consignee permit number.

If filing electronically, the importer must file with U.S. Customs and Border Protection the number associated with the consignee's permit issued under part 20 of this chapter (for shipments of specially denatured spirits) or part 22 of this chapter (for shipments of industrial spirits), along with the customs entry. If not filing electronically, the importer must make the permit available to the appropriate TTB officer or a customs officer upon request.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. TTB-145, 81 FR 94202, Dec. 22, 2016]

§ 26.293 Marks on containers.

(a) *Industrial spirits.* The shipper shall mark or label each immediate container of industrial spirits with the following information:

(1) The name or trade name of the distiller or shipper;

(2) The words “Virgin Islands Industrial Spirits”;

(3) A package identification number as required by subpart S of part 19 of this chapter;

(4) The date filled;

(5) Proof; and

(6) Quantity in proof gallons.

(b) *Specially denatured spirits.* The shipper shall mark or label each immediate container of specially denatured spirits with the following information:

(1) Quantity, in gallons, or in liters and gallons;

(2) A serial number or package identification number;

(3) Name and address of shipper;

(4) The words “Virgin Islands Specially Denatured Alcohol” or “Virgin Islands Specially Denatured Rum,” as appropriate;

(5) Formula number prescribed by part 21 of this chapter;

(6) Proof, if the spirits were denatured at other than 190 proof;

(7) Denaturants used, if spirits were denatured under an approved formula authorizing a choice of denaturants; and

(8) Quantity of denaturant used, if the approved formula authorizes a choice of quantities of denaturants.

[T.D. ATF-199, 50 FR 9199, Mar. 6, 1985, as amended by T.D. TTB-92, 76 FR 9171, Feb. 16, 2011]

§ 26.294 Record of shipment.

(a) *Filing information with U.S. Customs and Border Protection.* Each person bringing industrial spirits or specially denatured spirits into the United States from the Virgin Islands, who files electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this paragraph, with the entry or entry summary, as appropriate. Any information required by this paragraph that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this paragraph. In addition to the consignee's permit number or a copy of the consignee's permit as required by § 26.292, the following information is required:

- (1) The name and address of the consignee;
- (2) The name and address of the consignor; and
- (3) The total quantity shipped.

(b) *Maintaining the record of shipment.* For each shipment of industrial spirits or specially denatured spirits from the Virgin Islands to the United States, the importer shall possess and maintain a record of shipment. The record of shipment shall consist of an invoice, bill of lading, or similar document that shows the information required in paragraph (a) of this section, as well as the following:

- (1) For each formula of specially denatured spirits, the formula number prescribed by part 21 of this chapter;
- (2) For each formula of specially denatured spirits, the total quantity in liters or gallons and the serial numbers or package identification numbers of containers; and
- (3) For industrial spirits, the total quantity in proof liters or proof gallons

and the package identification numbers of containers.

(c) *Retaining records and making them available upon request.* The person bringing industrial spirits or specially denatured spirits into the United States from the Virgin Islands must maintain records to substantiate the information required under paragraph (a) of this section, and any information provided to CBP to meet CBP requirements, in accordance with the record retention requirements of § 26.276. Such records also must be made available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. TTB-145, 81 FR 94202, Dec. 22, 2016]

SHIPMENT OF COMPLETELY DENATURED ALCOHOL AND PRODUCTS MADE WITH DENATURED SPIRITS

§ 26.295 Marks on containers.

(a) *Completely denatured alcohol.* (1) For each immediate container of completely denatured alcohol with a capacity exceeding 1 gallon, the shipper shall mark or label on the head or side of the package or on the side of the casing, the following:

- (i) The name and address of the person filling the container;
- (ii) The contents in gallons;
- (iii) The words "Virgin Islands Completely Denatured Alcohol"; and
- (iv) The formula number prescribed by part 21 of this chapter.

(2) In addition, if the container has a capacity of 5 gallons or less, the words "Completely Denatured Alcohol" shall be in red letters on white background, and the label shall also have the words "Caution—contains poisonous ingredients" in red letters on white background.

(b) *Products made with denatured spirits.* The shipper shall mark or label each immediate container of a product made with denatured spirits with the name, trade name or brand name of the product and the name and address of the shipper.

§ 26.296 Record of shipment.

(a) *Filing information with U.S. Customs and Border Protection.* Each person bringing completely denatured alcohol

§ 26.300

or products made with denatured spirits into the United States from the Virgin Islands, who files electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this paragraph with the entry or entry summary, as appropriate. Any information required by this paragraph that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this paragraph. The following information is required:

- (1) The consignor's name and address;
- (2) The consignee's name and address; and
- (3) The total quantity shipped.

(b) *Maintaining additional information as a record.* For each shipment of completely denatured alcohol or products made with denatured spirits from the Virgin Islands to the United States, the importer shall possess and maintain a record of shipment. The record of shipment shall consist of an invoice, bill of lading, or similar document that shows the information required under paragraph (a) of this section, as well as the following:

- (1) The capacity and number of containers;
- (2) For each formulation of completely denatured alcohol, the words "Virgin Islands Completely Denatured Alcohol" and the formula number prescribed by part 21 of this chapter; and
- (3) For product made with denatured spirits, the name, trade name, or brand name of the product.

(c) *Retaining records and making them available upon request.* The person bringing completely denatured alcohol or products made with denatured spirits into the United States from the Virgin Islands must maintain records to substantiate the information required under paragraph (a) of this section and records as required under paragraph (b) of this section, and any information submitted to CBP to meet CBP requirements, in accordance with the record retention requirements of § 26.276. Such records also must be made available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. TTB-145, 81 FR 94202, Dec. 22, 2016]

27 CFR Ch. I (4-1-23 Edition)

Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to the Bonded Premises of a Distilled Spirits Plant

AUTHORITY: Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232).

SOURCE: T.D. ATF-62, 44 FR 71717, Dec. 11, 1979, unless otherwise noted.

§ 26.300 General provisions.

(a) *Transfer of bulk distilled spirits from customs custody to bonded premises of a distilled spirits plant.* Distilled spirits brought into the United States from the Virgin Islands in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant may be redistilled or denatured only if 185 degrees or more of proof, and may be withdrawn from a distilled spirits plant for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the provisions of part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the person bringing the spirits into the United States shall thereupon be relieved of his liability for such tax.

(b) *Transfer of bulk natural wine from customs custody to a bonded wine cellar.* Bulk natural wine, as defined in § 26.11, brought into the United States from the Virgin Islands may, under the provisions of this subpart, be withdrawn

by the proprietor of a bonded wine cellar from customs custody and transferred in bond in bulk containers to the bonded wine cellar, without payment of the internal revenue tax imposed on such wine by 26 U.S.C. 7652. Wine so withdrawn and transferred to a bonded wine cellar may be withdrawn from a bonded wine cellar for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic wine. The proprietor of the bonded wine cellar to which the wine is transferred becomes liable for the tax on wine withdrawn from customs custody under 26 U.S.C. 5364. Upon release of the wine from customs custody, the person bringing in the wine is relieved of the liability for the tax.

(c) *Transfer of beer from customs custody to brewery premises.* Bulk beer brought into the United States from the Virgin Islands may, under the provisions of this subpart, be withdrawn by the proprietor of a brewery from customs custody and transferred in bulk containers to the brewery premises, without payment of the internal revenue tax imposed on such beer by 26 U.S.C. 7652. Beer so withdrawn and transferred to brewery premises may be withdrawn from a brewery for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic beer. The proprietor of the brewery to which the beer is transferred becomes liable for the tax on beer withdrawn from customs custody under 26 U.S.C. 5418. Upon release of the beer from customs custody, the person bringing in the beer from the Virgin Islands is relieved of the liability for the tax.

[T.D. ATF-62, 44 FR 71717, Dec. 11, 1979, as amended by T.D. TTB-145, 81 FR 94203, Dec. 22, 2016; T.D. TTB-159, 85 FR 33542, June 2, 2020]

§ 26.301 Record of shipment.

(a) *Preparation of records.* (1) The importer bringing distilled spirits, natural wines, or beer into the United States from the Virgin Islands under this subpart must prepare a transfer record according to § 26.273a. A separate transfer record must be prepared for each conveyance. The importer bringing in the distilled spirits, natural wines, or beer must maintain these records and any additional records nec-

essary to substantiate the information provided under paragraph (b) of this section, in accordance with the record retention requirements of § 26.276, and must make them available upon request of the appropriate TTB officer or a customs officer. The importer must also provide a copy of the record to the recipient, if the recipient is not the importer.

(2) For distilled spirits, if the spirits are in packages, the person bringing the spirits into the United States must be in possession of a package gauge record for each bulk container, as provided in § 26.273b, at the time the distilled spirits are withdrawn from customs custody. The package gauge record may be prepared by the insular gauger at the time of their withdrawal from an insular bonded warehouse, as provided in § 26.204, or, if not prepared by the insular gauger, the package gauge record must be prepared by the insular consignor.

(b) *Reporting information for release from customs custody.* A person bringing distilled spirits, natural wines, or beer into the United States from the Virgin Islands under this subpart, if filing electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this section at the time of filing the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. Regardless of the method of filing, the importer must retain all of the information required by this section and any supporting documentation and make it available for inspection by the appropriate TTB officer or a customs officer. The following information is required:

(1) The number of the importer's basic permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20, and the

§§ 26.302–26.303

importer's employer identification number (EIN) associated with that permit;

(2) The name and address of the ultimate consignee;

(3) The TTB-issued IRC registry number of the ultimate consignee;

(4) The quantity of each distilled spirit, natural wine, or beer in the shipment (in proof liters or proof gallons, for distilled spirits); and

(5) Information identifying each product for Internal Revenue Code and/or FAA Act purposes.

(c) *Maintenance of substantiating records.* The importer bringing the distilled spirits, wines, or beer into the United States must maintain records to substantiate the information required under paragraph (b) of this section in accordance with the record retention requirements of §26.276 and must provide them upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. TTB-145, 81 FR 94203, Dec. 22, 2016]

§§ 26.302–26.303 [Reserved]

§ 26.304 Bulk conveyances to be sealed.

When a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank, tank barge, cargo container, tank car, tank truck, or similar bulk conveyance, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

§ 26.305 Receipt by consignee.

Proprietors of distilled spirits plants who receive Virgin Islands spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on TTB Form 5100.16 to receive Virgin Islands spirits from customs custody.

[T.D. ATF-198, 50 FR 8555, Mar. 1, 1985]

27 CFR Ch. I (4–1–23 Edition)

Subpart Ob—Claims for Drawback on Eligible Articles From the Virgin Islands

SOURCE: T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, unless otherwise noted.

§ 26.306 Drawback of tax.

Any person who brings eligible articles into the United States from the Virgin Islands may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

§ 26.307 Claimant registration.

Any person filing claim for drawback of tax on eligible articles brought into the United States from the Virgin Islands must register annually as a non-beverage domestic drawback claimant. Registration will be accomplished when the claimant submits the first drawback claim for each year, along with the required supporting data for the claim, under subpart G of part 17 of this chapter. For purposes of registration, subpart C of part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States, and each business location from which entry of eligible articles is caused or effected shall be treated as a place of manufacture.

[T.D. TTB-79, 74 FR 37406, July 28, 2009]

§ 26.308 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands and intending to file monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback

under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF-379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]

§ 26.309 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer will allow the drawback at \$1 less than the rate applicable under 26 U.S.C. 7652(f). Claims for products manufactured in the Virgin Islands must be filed separately from claims filed under part 17 of this chapter for products manufactured in the United States.

(b) *Information on claims.* The claim must set forth the following:

(1) [Reserved]

(2) That the eligible articles brought into the United States on which drawback is claimed are fully taxpaid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in the Virgin Islands in compliance with approved formulas in accordance with § 26.221.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The claimant's employer identification number, as required by §§ 17.31 and 17.32 of this chapter; and

(2) A description of each eligible article as follows:

(i) Name and type of each product;

(ii) Name and address of the manufacturer of each product;

(iii) Formula number under which each product was manufactured;

(iv) Alcohol content of each product;

(v) Quantity of each product;

(vi) Proof gallons of distilled spirits contained in each product;

(vii) Date of entry of the eligible product into the United States; and

(viii) Evidence of taxpayment of distilled spirits in accordance with § 26.266.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. ATF-451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001; T.D. TTB-79, 74 FR 37406, July 28, 2009]

§ 26.310 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from the Virgin Islands shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

(1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (e) of this section.

§ 26.311

27 CFR Ch. I (4–1–23 Edition)

(c) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(d) *Evidence of taxpayment of distilled spirits.* Evidence of taxpayment of eligible articles (such as Customs Forms 7501 and 7505 receipted to indicate payment of tax) shall be maintained as evidence of taxpayment to support information required to be furnished in the supporting data filed with a claim.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by appropriate TTB officers.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001]

Subpart P—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6818, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 26.311 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46864, Oct. 26, 1976. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

§ 26.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47 or § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of subpart E of part 5 or part 19 of this chapter, may be brought into the United States for packaging distilled spirits as provided in part 19 of this chapter.

[T.D. ATF-34, 41 FR 46864, Oct. 26, 1976, as amended by T.D. ATF-62, 44 FR 71718, Dec. 11, 1979]

§ 26.314 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit TTB Form 5100.31 for approval prior to bringing such bottles into the United States. For empty bottles, the bottler shall obtain approval on TTB Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval.* (1) Properly submitted TTB Forms 5100.31 to bring distinctive liquor bottles (filled) into the United States from Puerto Rico or the Virgin Islands, or, properly submitted TTB Forms 5100.31 to use distinctive liquor bottles (empty) which have been brought into the United States from Puerto Rico or the Virgin Islands, shall be approved provided such bottles are

found by the appropriate TTB officer to—

- (i) Meet the requirements of 27 CFR part 5;
- (ii) Be distinctive;
- (iii) Be suitable for their intended purpose;
- (iv) Not jeopardize the revenue; and
- (v) Not be deceptive to the consumer.

(2) The applicant shall keep a copy of the approved TTB Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If TTB Form 5100.31 is disapproved, the applicant shall be notified of the appropriate TTB officer's decision and the reasons therefor.

(Approved by the Office of Management and Budget under control number 1513-0020)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF-114, 47 FR 43950, Oct. 5, 1982, as amended by T.D. ATF-242, 51 FR 39526, Oct. 29, 1986; T.D. ATF-451, 66 FR 21670, May 1, 2001; T.D. TTB-145, 81 FR 94204, Dec. 22, 2016]

§ 26.315 [Reserved]

§ 26.316 Bottles not constituting approved containers.

The appropriate TTB officer is authorized to disapprove any bottle, including a bottle of less than 200 mL capacity, for use as a liquor bottle which he determines to be deceptive. Disapproved bottles may not be brought into the United States from the U.S. Virgin Islands or from Puerto Rico.

[T.D. TTB-145, 81 FR 94204, Dec. 22, 2016]

§ 26.317 Bottles to be used for display purposes.

Empty liquor bottles may be brought into the United States and may be furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. Any paper strip used to seal the bottle shall be of solid color and without design or printing, except that a border or a design, formed entirely of the legend “not genuine—for display purposes only” is permissible. Records shall be kept of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

§ 26.318 Liquor bottles not eligible to be brought into the United States.

(a) *General.* Except as provided in paragraph (b) of this section, filled liquor bottles that do not conform to the provisions of this subpart may not be brought into the United States from Puerto Rico or the Virgin Islands.

(b) *Exception.* Upon receipt of a letterhead application, the appropriate TTB officer may, in nonrecurring cases, authorize a person to bring into the United States liquor bottles that do not conform to the provisions of this part if that TTB officer determines that the nonconformance is due to an unintentional error; the nonconforming liquor bottle is determined not to be deceptive, as provided in § 26.316; and the entry of the nonconforming liquor bottle will not jeopardize the revenue. The person bringing such liquor bottles into the United States under such TTB authorization must maintain for not less than three years from the date that the liquor bottles were released from customs custody proof of that authorization and make it available upon request by the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. TTB-145, 81 FR 94204, Dec. 22, 2016]

§ 26.319 Used liquor bottles.

The appropriate TTB officer may pursuant to letterhead application, authorize an importer to receive liquor bottles assembled for him as provided in § 31.203 of this chapter. Used liquor bottles so received may be stored at any suitable location pending return to Puerto Rico or the Virgin Islands. Records shall be kept of the receipt and disposition of such bottles.

[T.D. 6954, 33 FR 6818, May 4, 1968, as amended by T.D. 7006, 34 FR 2250, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. TTB-25, 70 FR 19883, Apr. 15, 2005; T.D. TTB-145, 81 FR 94204, Dec. 22, 2016]

Subpart Q—Miscellaneous Provisions

§ 26.331 Alternate methods or procedures.

(a) *Application.* A person bringing liquors into the United States from Puerto Rico or the Virgin Islands who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file application with the appropriate TTB officer. If such person has several places of business at which he desires to use such alternate method or procedure, a separate application shall be submitted for each. Each application shall:

- (1) Specify the name, address, and permit number of the person to which it relates;
- (2) State the purpose for which filed; and
- (3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate TTB officer shall determine whether the approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate TTB officer, may approve the alternate method or procedure if he finds that:

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

No alternate method or procedure shall be used until approval has been received from the appropriate TTB offi-

cer. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1513-0064)

[T.D. ATF-2, 37 FR 22739, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. TTB-145, 81 FR 94204, Dec. 22, 2016]

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Subpart A—Scope of Regulations

Sec.

- 27.1 Imported distilled spirits, wines, and beer.
- 27.2 Forms prescribed.
- 27.3 Delegations of the Administrator.

Subpart B—Definitions

- 27.11 Meaning of terms.

Subpart C—Dealer Registration and Recordkeeping

- 27.30 Dealer registration and recordkeeping.
- 27.31 Warehouse receipts covering distilled spirits.

Subpart D—Tax on Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

- 27.40 Distilled spirits.
- 27.41 Computation of effective tax rate.

WINES

- 27.42 Wines.
- 27.42a Still wines containing carbon dioxide.

LIQUEURS, CORDIALS, AND OTHER COMPOUNDS AND PREPARATIONS

- 27.43 Liqueurs, cordials, and similar compounds.
- 27.44 Other compounds and preparations.

BEER

- 27.45 Rate of tax.
- 27.46 Computation of tax.

COLLECTION OF INTERNAL REVENUE TAXES

- 27.48 Imported distilled spirits, wines, and beer.