

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 Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer, the revenue is jeopardized or the effective administration of this part is hindered by the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.

Alcohol and Tobacco Tax and Trade Bureau, Treasury

Pt. 27

27.48a Payment of tax by electronic fund transfer.

EXEMPTION OF CERTAIN SAMPLES FROM INTERNAL REVENUE TAXES

27.49 Commercial samples of alcoholic beverages.

Subpart E—General Requirements

FEDERAL ALCOHOL ADMINISTRATION ACT REQUIREMENTS FOR IMPORTATION OF DISTILLED SPIRITS, WINES, AND MALT BEVERAGES

27.55 Requirements of the Federal Alcohol Administration Act.

PACKAGING AND MARKING OF DISTILLED SPIRITS

27.56 Distilled spirits containers of a capacity of not more than 1 gallon.

27.57 Containers in excess of 1 gallon.

LABELING OF DISTILLED SPIRITS

27.58 Containers of 1 gallon (3.785 liters) or less.

MARKING AND LABELING OF WINES AND BEER

27.59 Wines.

27.60 Beer.

CLOSURES FOR CONTAINERS OF DISTILLED SPIRITS

27.61 Containers of distilled spirits to bear closures.

27.62 Affixing closures.

EXEMPTIONS

27.74 Exemption from requirements pertaining to marks, bottles, and labels.

27.75 Samples of distilled spirits, wine, and beer for quality control purposes.

WINE AND FLAVORS CONTENT OF DISTILLED SPIRITS

27.76 Approval and certification of wine and flavors content.

27.77 Standard effective tax rate.

Subparts F–G [Reserved]

Subpart H—Importation of Distilled Spirits in Bulk

27.120 Persons authorized to receive distilled spirits imported in bulk.

27.121 Containers.

Subpart I—Importer's Records and Reports

27.130–27.132 [Reserved]

RECORD AND REPORT OF IMPORTED LIQUORS

27.133 General requirements.

27.134 Proprietors of qualified premises.

FILING AND RETENTION OF RECORDS AND REPORTS

27.136 Filing.

27.137 Retention.

OTHER RECORDS

27.138 Transfer record.

27.139 Package gauge record.

27.140 Certification requirements for wine.

Subparts J–K [Reserved]

Subpart L—Transfer of Distilled Spirits, Natural Wines, and Beer Without Payment of Tax, From Customs Custody to Distilled Spirits Plants, Bonded Wine Cellars, and Breweries

27.171 General provisions.

27.172 Preparation of records and reporting of information for release of distilled spirits, natural wines, and beer without payment of tax.

27.173 [Reserved]

27.174 Tank cars and tank trucks to be sealed.

27.175 Receipt of distilled spirits by consignee.

Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax For Use of the United States

27.181 General.

27.182 Application and permit, Form 5150.33.

27.183 Use of Government agency permit, Form 5150.33.

27.184 Information required for entry.

Subpart N—Requirements for Liquor Bottles

27.201 Scope of subpart.

27.202 Standards of fill.

27.204 Distinctive liquor bottles.

27.205 [Reserved]

27.206 Bottles not constituting approved containers.

27.207 Bottles to be used for display purposes.

27.208 Liquor bottles not eligible for release from customs custody.

27.209 Used liquor bottles.

Subpart O—Miscellaneous Provisions

27.221 Alternate methods or procedures.

27.222 Importation of denatured spirits and fuel alcohol.

27.223–27.249 [Reserved]

Subpart P—Craft Beverage Modernization Act Import Refund Claims

27.250 Scope.

27.252 Meaning of terms.

27.254 Registration of foreign producer.

§ 27.1

- 27.256 Foreign producer ownership information.
- 27.258 Changes to foreign producer registration.
- 27.260 Persons authorized to act on behalf of foreign producer.
- 27.262 Foreign producer's assignment of CBMA tax benefits.
- 27.264 CBMA import refund claim submission.
- 27.266 Importer reference number.
- 27.268 Revocation of eligibility for CBMA tax benefits.

AUTHORITY: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122-5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6038E, 6065, 6109, 6302, 7805.

SOURCE: 20 FR 3561, May 21, 1955, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF-479, 67 FR 30799, May 8, 2002.

CROSS REFERENCE: For regulations with respect to distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands, see part 26 of this subchapter.

EDITORIAL NOTE: Nomenclature changes to part 27 appear by T.D. ATF-474, 67 FR 11231, Mar. 13, 2002, and T.D. ATF-479, 67 FR 30799, May 8, 2002.

Subpart A—Scope of Regulations

§ 27.1 Imported distilled spirits, wines, and beer.

This part, “Importation of Distilled Spirits, Wines, and Beer”, contains procedural and substantive requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including commodity taxes, permits, marking, branding, closing and labeling of containers and packages, and records and reports.

NOTE: Distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands are governed by the provisions of part 26 of this chapter.

[T.D. ATF-206, 50 FR 23955, June 7, 1985, as amended by T.D. ATF-459, 66 FR 38550, July 25, 2001; T.D. TTB-79, 74 FR 37406, July 28, 2009]

§ 27.2 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part, including reports, returns, and records. All of the information called for in each form shall be fur-

27 CFR Ch. I (4–1–23 Edition)

nished 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 46921, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5963, Feb. 27, 1987; T.D. ATF-372, 61 FR 20725, May 8, 1996; T.D. ATF-474, 67 FR 11231, Mar. 13, 2002; T.D. TTB-44, 71 FR 16946, Apr. 4, 2006]

§ 27.3 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 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, Wines, and Beer. 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 16946, Apr. 4, 2006]

Subpart B—Definitions

§ 27.11 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 1135.27, Delegation of the Administrator's Authorities in 27 CFR Part 27, Importation of Distilled Spirits, and Beer.

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—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted. 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.

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.

CFR. The Code of Federal Regulations.

Class 8 Customs bonded warehouse. A class 8 customs bonded warehouse es-

tablished under the provisions of Customs Regulations (19 CFR, chapter I).

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.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not including wine as defined in this subpart.

Distilled spirits plant. An establishment qualified under the provisions of part 19 of this chapter for the production, storage, or processing of spirits, or for authorized combinations of such operations.

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. 5001 is paid or determined.

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. For purposes of this definition, the phrase "receipt in bond" applies to wine on which tax has not been determined or paid that is received by the proprietor of a distilled spirits plant, even if the proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, is not required to provide a bond for the premises where the wine is received.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches. For purposes of this definition, the phrase "receipt in bond" applies to wine on which tax has not

§ 27.30

27 CFR Ch. I (4–1–23 Edition)

been determined or paid that is received by the proprietor of a distilled spirits plant, even if the proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, is not required to provide a bond for the premises where the wine is received.

Hard cider. A wine that meets the eligibility requirements set forth in § 24.331 for the hard cider tax rate set forth in § 24.270.

Importer. Any person who imports distilled spirits, wines, or beer into the United States.

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.

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.

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

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated

as twice the percent of ethyl alcohol by volume.

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.

United States. “United States” includes only the States and the District of Columbia.

U.S.C. The United States Code.

Wine. (a) Still wine, including vermouth or other aperitif wine, artificial or imitation wines or compounds sold as still wines, champagne or sparkling wine, and artificially carbonated wine, and (b) flavored or sweetened fortified or unfortified wines, by whatever name sold or offered for sale, containing not over 24 percent alcohol by volume.

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

[T.D. ATF-48, 43 FR 13552, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.11, 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—Dealer Registration and Recordkeeping

SOURCE: T.D. TTB-79, 74 FR 37406, July 28, 2009, unless otherwise noted.

§ 27.30 Dealer registration and record-keeping.

Importers engaged in the business of selling, or offering for sale, distilled spirits, wines, or beer are subject to the provisions of part 31 of this chapter relating to dealer registration and records. Part 31 requires the filing of TTB Form 5630.5d with TTB, in accordance with the instructions on the form, before commencing business and on or

before July 1 of each year thereafter if there have been any changes. The dealer must file an amended registration and give notice of termination in accordance with the rules of part 31.

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

§ 27.31 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, every person engaged in business as an importer of distilled spirits who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded 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)

Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

§ 27.40 Distilled spirits.

(a) A tax is imposed on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed by 26 U.S.C. 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of each proof gallon. All products of distillation, by whatever name known, which contain distilled spirits, are considered to be distilled spirits and are taxed as such. The tax will be determined at the time of importation, or, if transferred to the bonded premises of a distilled spirits plant, at the time of withdrawal therefrom.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 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 ac-

cordance with § 27.41. The effective tax rate established will be applied to each entry.

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

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

[T.D. ATF-297, 55 FR 18069, Apr. 30, 1990, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 27.41 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

§ 27.42

27 CFR Ch. I (4–1–23 Edition)

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 18069, Apr. 30, 1990, as amended by T.D. ATF–307, 55 FR 52742, Dec. 21, 1990. Redesignated by T.D. ATF–474, 67 FR 11232, Mar. 13, 2002]

WINES

§ 27.42 Wines.

All wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax at the rates prescribed by law; such tax to be determined at the time of removal from customs custody for consumption or sale. The tax is imposed on each wine gallon and at a like rate on fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon. All wines containing more than 24 percent of alcohol by volume shall

be classed as distilled spirits and shall be taxed accordingly.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 27.42a Still wines containing carbon dioxide.

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.

[T.D. ATF–13, 40 FR 4419, Jan. 30, 1975. Redesignated at 40 FR 16835, Apr. 15, 1975]

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).

LIQUEURS, CORDIALS, AND OTHER
COMPOUNDS AND PREPARATIONS**§ 27.43 Liqueurs, cordials, and similar compounds.**

A tax is imposed by 26 U.S.C. 5001 on all liqueurs, cordials, and similar compounds, containing distilled spirits, in a customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. The tax shall be determined at the time of importation, or, if transferred to the bonded premises of a distilled spirits plant, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1331, as amended (26 U.S.C. 5001, 5041))

[T.D. ATF-62, 44 FR 71718, Dec. 11, 1979, as amended by T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

§ 27.44 Other compounds and preparations.

Compounds and preparations, other than those specified in § 27.43 containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rates applicable to distilled spirits. Compounds and preparations, containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wines.

(68A Stat. 595, as amended, 609, as amended; 26 U.S.C. 5001, 5041)

BEER

§ 27.45 Rate of tax.

A tax is imposed by 26 U.S.C. 5051, on all beer imported into the United States, at the rate prescribed in such

section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for fractional parts of a barrel. The tax on beer shall be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5054))

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55853, Sept. 28, 1979]

§ 27.46 Computation of tax.

The tax on imported beer shall be computed on the basis of the actual quantity in a container, at the rate prescribed by law.

(72 Stat. 1333, as amended; 26 U.S.C. 5051)

[T.D. 6644, 28 FR 3165, Apr. 2, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

COLLECTION OF INTERNAL REVENUE
TAXES**§ 27.48 Imported distilled spirits, wines, and beer.**

(a) *Distilled spirits, wines, and beer imported subject to tax*—(1) *General*. Internal revenue taxes payable on imported distilled spirits, wines, and beer are collected, accounted for, and deposited as internal revenue collections 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 distilled spirits, wines, or beer are duty- and tax-paid to CBP will be treated as a return for purposes of this part.

(2) *Required information*. In the case of distilled spirits, wines, and beer imported into the United States subject to tax, the importer, 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 determining and collecting the Federal excise tax and administering the provisions of the Internal Revenue Code and

§ 27.48a

27 CFR Ch. I (4–1–23 Edition)

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. For all distilled spirits, wines, and beer imported under this paragraph, the following information is required:

(i) 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 1.58, and the importer's name, address, and employer identification number (EIN) associated with that permit;

(ii) 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;

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

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

(v) Information identifying each product for Internal Revenue Code and/or FAA Act purposes, as applicable.

(b) *Distilled spirits, natural wines, and beer transferred without payment of tax to distilled spirits plants, bonded wine cellars, and breweries.* Distilled spirits, natural wine (as defined in § 27.11) and beer in bulk containers may be released from customs custody without payment of tax under the provisions of subpart L of this part and thereafter removed subject to tax from distilled spirits plants, bonded wine cellars, and breweries, respectively. The tax will be collected and paid under the provisions of part 19, 24 or 25 of this chapter, respectively.

(c) *Entry for warehousing*—(1) *General.* Except as provided in paragraph (c)(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 are removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone.

(2) *Entry for warehousing of products destined for export.* Paragraph (c)(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.

(d) *Records.* Regardless of the method of filing, the importer must maintain 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 maintained in accordance with the record retention requirements of § 27.137, and the records 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)

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

[T.D. TTB-145, 81 FR 94204, Dec. 22, 2016, as amended by T. D. TTB-159, 85 FR 33542, June 2, 2020]

§ 27.48a Payment of tax by electronic fund transfer.

(a) Each importer 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 26 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 26 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 26 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 an importer 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 by the taxpayer.

(b) 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.

(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 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) An importer 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.

(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 533, Jan. 7, 1987, as amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

EXEMPTION OF CERTAIN SAMPLES FROM INTERNAL REVENUE TAXES

§ 27.49 Commercial samples of alcoholic beverages.

Samples of distilled spirits, beer, and wine, to be used in the United States by persons importing alcoholic beverages in commercial quantities, are, subject to the limitations in this section, exempt from the payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. In no case shall this exemption apply to more than one sample of each alcoholic beverage product admitted during any calendar quarter for the use of each such person. No sample of beer shall contain more than 8 ounces, no sample of wine shall contain more than 4 ounces, and no sample of distilled spirits shall contain more than 2 ounces.

(76 Stat. 72; 19 U.S.C. 1202)

[T.D. 6300, 23 FR 5168, July 8, 1958; T.D. ATF-2, 37 FR 22740, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975]

Subpart E—General Requirements

FEDERAL ALCOHOL ADMINISTRATION ACT REQUIREMENTS FOR IMPORTATION OF DISTILLED SPIRITS, WINES, AND MALT BEVERAGES

§ 27.55 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 imports distilled spirits, wines, or malt beverages for nonindustrial use must comply with

§ 27.56

certain permit and labeling requirements as described in this section. See 27 CFR 1.10 for the definitions of distilled spirits, wine, and malt beverages under the FAA Act. Tourists importing 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 political subdivision thereof or any officer or employee of any such agency, who intends to engage in the business of importing distilled spirits, wines, or malt beverages into the United States must, prior to importing 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 with the filing of the customs entry 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 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 time of entry.

27 CFR Ch. I (4–1–23 Edition)

(d) *Foreign certificates.* Every person and any agency of a State or political subdivision thereof or any officer or employee of such agency, importing for commercial purposes into the United States for consumption containers of distilled spirits or wines that require a certificate under 27 CFR 4.45 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.

(Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203)

[T.D. TTB-145, 81 FR 94205, Dec. 22, 2016]

PACKAGING AND MARKING OF DISTILLED SPIRITS

§ 27.56 Distilled spirits containers of a capacity of not more than 1 gallon.

Bottled distilled spirits imported into the United States for sale shall be bottled in liquor bottles which conform to the requirements of subpart N of this part and part 5 of this chapter. Empty bottles imported for the packaging of distilled spirits shall conform to the requirements of subpart N of this part. (For customs requirements as to marking, see 19 CFR parts 11 and 12.)

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

§ 27.57 Containers in excess of 1 gallon.

Imported containers of distilled spirits in excess of 1 gallon are required to be marked in accordance with customs regulations (19 CFR parts 11 and 12).

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-206, 50 FR 23955, June 7, 1985]

LABELING OF DISTILLED SPIRITS

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

Labels on imported containers of distilled spirits, and on containers of imported distilled spirits bottled in customs custody, for sale at retail, are required to be covered by a certificate of label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. Containers of imported distilled spirits

bottled after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval TTB Form 5100.31 issued pursuant to part 5 of this chapter. When distilled spirits are to be labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to the provisions of part 19 of this chapter.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.58, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

MARKING AND LABELING OF WINES AND BEER

§ 27.59 Wines.

(a) *General*. All imported wines containing not less than 7 percent and not more than 24 percent of alcohol by volume are required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4), prior to their removal from customs custody. Containers of imported wine bottled or packaged after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval on TTB Form 5100.31 issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (27 CFR part 4). Imported containers of wine are required also to be marked, branded and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

(b) *Hard cider*. The container of any wine eligible for the “hard cider” tax class set forth in § 24.270 of this chapter must be labeled in accordance with the requirements applicable to wine containers removed from wine premises under § 24.257(a)(4) of this chapter. (See § 24.331 of this chapter for the eligi-

bility requirements for the hard cider tax rate).

(Approved by the Office of Management and Budget under control number 1513-0092 and 1513-0138)

[20 FR 3561, May 21, 1955. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-242, 51 FR 39526, Oct. 29, 1986; T.D. ATF-474, 67 FR 11232, Mar. 13, 2002; T.D. TTB-147, 82 FR 7666, Jan. 23, 2017; 82 FR 57353, Dec. 5, 2017]

§ 27.60 Beer.

All imported beer is required to be released from customs custody in conformity with the Federal Alcohol Administration Act and regulations thereunder. The attention of all concerned is directed, in this connection, to the provisions of Regulations 7 (27 CFR part 7) relating to the labeling and advertising of malt beverages, issued under the Federal Alcohol Administration Act. Imported containers of beer are required to be marked and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

CLOSURES FOR CONTAINERS OF DISTILLED SPIRITS

§ 27.61 Containers of distilled spirits to bear closures.

No person shall transport, buy, possess, or sell, or transfer any imported distilled spirits in containers of 1 gallon (3.785 liters) or less, unless the immediate container thereof has a closure or other device 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]

§ 27.62 Affixing closures.

Each container of imported 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]

§ 27.74

EXEMPTIONS

§ 27.74 Exemption from requirements pertaining to marks, bottles, and labels.

The provisions of this part relating to the labeling of containers as prescribed by 27 CFR part 5 are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid or determined on or before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in §§ 27.49 and 27.75, imported for any purpose are not exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 27.49 are exempt from the labeling requirements of 27 CFR parts 4 and 7, respectively. Exemptions from the requirements that imported distilled spirits, wines, and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR part 11).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5205, 5301))

[T.D. ATF-206, 50 FR 23956, June 7, 1985]

§ 27.75 Samples of distilled spirits, wine, and beer for quality control purposes.

Samples of distilled spirits, wine, and beer in containers of a capacity of not more than 1.75 liters, imported solely for quality control purposes (laboratory testing and analysis) and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to marks, bottles, labels, and standards of fill. Samples imported for quality control purposes shall not be exempt from the payment of any internal revenue tax imposed on, or by reason of, importation.

[T.D. ATF-198, 50 FR 8557, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23955, June 7, 1985]

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

WINE AND FLAVORS CONTENT OF DISTILLED SPIRITS

§ 27.76 Approval and certification of wine and flavors content.

(a) Any person who, after December 1, 1990, imports into the United States distilled spirits on which the tax is to be paid or determined at an effective tax rate based in whole, or in part, on the alcohol content derived from eligible wine or eligible flavors which have not been previously approved on TTB Form 5154.1 (formerly TTB Form 5530.5 and ATF Form 1678) 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 importer shall cause to be submitted 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 contained in the product; and

(2) A statement of composition listing—

(i) For wine, the kind (class and type) and percentage of alcohol by volume; and

(ii) For flavors, the name and percentage of alcohol by volume, and the name and quantity of each ingredient used in the manufacture of the flavor.

(c) Each time distilled spirits containing eligible wine or eligible flavors are imported into the United States, the importer shall prepare a certificate of effective tax rate computation showing the following:

(1) Name, address, and permit number of the importer;

(2) Kind (class and type) of product;

(3) Elements necessary to compute the effective tax rate in accordance with § 27.41 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 eligible flavors;

(4) After December 1, 1990, the date of the statement of eligibility of each eligible wine and of each eligible flavor;

(5) Effective tax rate applied to the product; and

(6) Signature of the importer or other duly authorized person under the following declaration:

I declare under the penalties of perjury that this certificate of effective tax rate computation has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(d) At the time of filing the entry summary, the importer must have the certificate in its possession and make it available upon request of the appropriate TTB officer or a customs officer. For distilled spirits withdrawn from customs custody under the provisions of subpart L of this part, the importer must furnish a copy of the certificate to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(e) The importer must maintain a copy of the certificate in accordance with the record retention requirements of § 27.137 and must make it 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)

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

[T.D. ATF-297, 55 FR 18070, Apr. 30, 1990, as amended by T.D. TTB-44, 71 FR 16946, Apr. 4, 2006; T.D. TTB-145, 81 FR 94206, Dec. 22, 2016]

§ 27.77 Standard effective tax rate.

(a) In lieu of preparing a certificate of effective tax rate computation each time distilled spirits containing eligible wine or eligible flavors are imported as prescribed in § 27.76(c), an importer may have a standard effective tax rate established based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product.

(b) To have a standard effective tax rate established, the importer shall cause to be submitted to the TTB Alcohol and Tobacco Laboratory, 6000 Ammendale Road, Ammendale, MD 20705, the following:

(1) The samples prescribed in § 27.76(b)(1) and an 8-ounce sample of the finished product;

(2) The statement of composition prescribed in § 27.76(b)(2);

(3) A statement of composition for the finished product listing the—

(i) Name of the product;

(ii) Quantity, alcohol content (percentage of alcohol by volume), and the kind (class and type) of each eligible wine or the name of each eligible flavor used in the manufacture of the product; and

(iii) Standard effective tax rate for the product computed in accordance with § 27.41.

(c) Where a standard effective tax rate has been previously approved for a product, an importer, in lieu of having a standard effective tax rate established, may use that rate. An importer desiring to use a previously approved standard effective tax rate shall obtain a copy of the approval from the person to whom it was issued and, over the signature of the importer or other duly authorized person, place the following declaration:

I declare under the penalties of perjury that this approval has been examined by me and, to best of my knowledge and belief, the standard effective tax rate established for this product is applicable to all like products contained in this shipment.

(d) A standard effective tax rate may not be employed until approved by the appropriate TTB officer. At the time of filing the entry summary, the importer must have the approval in its possession and make it available upon request of the appropriate TTB officer or a customs officer. The use of a standard effective tax rate shall not relieve an importer from the payment of any tax found to be due. The appropriate TTB officer may at any time require an importer to immediately discontinue the use of a standard effective tax rate.

(e) The importer must maintain a copy of the approval in accordance with the record retention requirements of § 27.137 and must make it available upon request of the appropriate TTB officer.

§ 27.120

(f) For distilled spirits withdrawn from customs custody under the provisions of subpart L of this part, the importer must furnish a copy of the approval to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

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

[T.D. ATF-297, 55 FR 18070, Apr. 30, 1990; 55 FR 23635, June 11, 1990; T.D. ATF-474, 67 FR 11232, Mar. 13, 2002; T.D. TTB-44, 71 FR 16946, Apr. 4, 2006; T.D. TTB-145, 81 FR 94206, Dec. 22, 2016]

Subparts F–G [Reserved]

Subpart H—Importation of Distilled Spirits in Bulk

§ 27.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (*i.e.*, in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C., 206) and subpart E of part 1 of this chapter. The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 27.133 to 27.134.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555))

[T.D. ATF-34, 41 FR 46864, Oct. 26, 1976, as amended by T.D. TTB-145, 81 FR 94206, Dec. 22, 2016]

§ 27.121 Containers.

Imported distilled spirits may be bottled in either domestic or imported containers conforming to the provisions of subpart N of this part.

(72 Stat. 1374; 26 U.S.C. 5301)

[T.D. 6954, 33 FR 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

27 CFR Ch. I (4–1–23 Edition)

Subpart I—Importer's Records and Reports

§§ 27.130–27.132 [Reserved]

RECORD AND REPORT OF IMPORTED LIQUORS

§ 27.133 General requirements.

Except as provided in § 27.134, every importer who imports distilled spirits, wines, or beer shall keep such records and render such 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 provision of part 31 of this chapter. Any importer who does not take physical possession of the liquors at the time of, but is responsible for, their release from customs custody 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 the date of release, 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, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

[T.D. ATF-2, 37 FR 22743, 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-25, 70 FR 19883, Apr. 15, 2005]

§ 27.134 Proprietors of qualified premises.

Importing operations conducted by proprietors of premises qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

[T.D. 6388, 24 FR 4824, June 12, 1959, as amended by T.D. 6477, 25 FR 6207, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

FILING AND RETENTION OF RECORDS AND
REPORTS**§ 27.136 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 officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with customs recordkeeping requirements (See 19 CFR part 163).

(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, they may maintain either loose-leaf or book records of the daily receipt of liquors which contain all the required information.

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

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

(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-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-474, 67 FR 11232, Mar. 13, 2002]

§ 27.137 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 following each withdrawal from customs custody, and during this period must be made available upon request of the ap-

propriate TTB officer or a customs officer. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not 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 number 1513-0064 and 1513-0088)

[T.D. TTB-145, 81 FR 94206, Dec. 22, 2016]

OTHER RECORDS

§ 27.138 Transfer record.

(a) *Distilled spirits.* The transfer record prescribed in § 27.172 must identify the importer and show the following:

- (1) The date prepared;
- (2) Serial number of the transfer record, beginning with "1" each January 1;
- (3) The name, address, and TTB-issued IRC registry number (distilled spirits plant number) of the proprietor receiving the spirits from customs custody;
- (4) The country of origin of the distilled spirits;
- (5) The name of the foreign producer;
- (6) The kind of spirits;
- (7) The age, in years, months and days of the spirits;
- (8) The proof of the spirits;
- (9) The type and number of containers;
- (10) The proof gallons of spirits in the shipment; and
- (11) The customs entry number and the amount of duty paid.

(b) *Wine.* The transfer record prescribed in § 27.172 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;

§ 27.139

27 CFR Ch. I (4–1–23 Edition)

(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 foreign producer.

(c) *Beer*. The transfer record prescribed in § 27.172 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 the amount of duty paid;

(7) The kind of beer; and

(8) The foreign brewer.

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

[T.D. TTB–145, 81 FR 94206, Dec. 22, 2016]

§ 27.139 Package gauge record.

When required in this part, a package gauge record shall be prepared to show:

(a) The date prepared;

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

(c) For each package:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Proof;

(5) Proof gallons;

(6) Name of warehouseman who received the spirits from customs custody; and

(7) Name of importer.

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

[T.D. ATF–198, 50 FR 8558, Mar. 1, 1985]

§ 27.140 Certification requirements for wine.

(a) *Definitions*. When used in this section, the following terms have the meaning indicated:

Affiliate means any one of two or more persons if one of such persons has

actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons, and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has a controlling ownership interest. An affiliate also means any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

Produced, when used with reference to wine, means removed from the fermenter.

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.

(b) *Certification*— (1) *General*. Except as otherwise provided in paragraph (b)(2) of this section, an importer of natural wine must have an original or copy of a certification from the producing country stating that the practices and procedures used to produce the imported wine constitute proper cellar treatment. The importer of bottled wine must be in possession of the certificate at the time of filing the entry with CBP, and the bottler of bulk wine must be in possession of the certificate at the time the wine is withdrawn from the premises where bottled. The importer or bottler, as appropriate, must provide the certificate upon request by the appropriate TTB officer or a customs officer. This requirement may be satisfied by providing the original certification, or a photocopy or electronic copy of the certification. The appropriate TTB officer or a customs officer may request, and the importer or bottler must provide, such information for a period of three years from the date that the product covered by the certificate was released from customs custody or removed from the bottler's premises, as applicable. The certification:

(i) Must be from a governmental or government-approved entity having oversight or control over enological

practices in the producing country under the laws of that country;

(ii) Must include the results of a laboratory analysis of the wine conducted either by a government laboratory of the producing country or by a laboratory certified by the government of the producing country; and

(iii) Must be in the possession of the importer at the time of release of the wine from customs custody and may cover multiple importations provided that the wine in each case is of the same brand and class or type, was made by the same producer, was subjected to the same cellar treatment, and conforms to the statements made on the certification.

(2) *Alternative certifications and exemptions*—(i) The following are alternatives to the producing country certification and laboratory analysis requirement described in paragraph (b)(1) of this section:

(A) In the case of natural wine produced and imported subject to an international agreement or treaty specifying that the practices and procedures used to produce the wine are acceptable to the United States, no producing country certification and laboratory analysis is required, unless that international agreement or treaty requires a certification, in which case the importer must have in his or her possession at the time of release of the wine from customs custody an original or copy of that certification.

(B) If an importer of natural wine or its affiliate owns or controls a winery operating under a basic permit issued under part 1 of this chapter, in lieu of a producing country certification and laboratory analysis, the importer may

self-certify that the practices and procedures used to produce the wine constitute proper cellar treatment. The self-certification must be either in the format set forth in paragraph (c) of this section with blocks 1 through 4 completed or in an alternative format that sets forth the same information, and it must be in the possession of the importer at the time of release of the wine from customs custody. In the case of self-certification the importer also must have at the time of release from customs custody records to establish that the requirements for self-certification are met.

(ii) The following are exempt from any certification requirement under this section:

(A) Natural wine produced before January 1, 2005. However, in this case, the importer must have in his or her possession at the time of release of the wine from customs custody records to establish that the wine was produced before January 1, 2005.

(B) Importations of natural wine that are of a personal, non-commercial nature. Examples of non-commercial importations include importations by travelers, gift shipments between individuals, and importations by diplomats for embassy or consular use.

(C) Importations of natural wine that constitute commercial samples. Commercial samples include sales samples, samples for trade shows, and samples for laboratory analysis.

(D) Imported natural wine held on board international passenger carriers, such as cruise ships or airliners.

(c) *Form*. The format for certification referred to in paragraph (b) of this section is the following:

Certification of Natural Wine Imported into the United States

1. Producer name and address:								
2. Description of wine:								
3. Check applicable box: <ul style="list-style-type: none"> a. <input type="checkbox"/> Producing country certification and laboratory analysis results completed below. b. <input type="checkbox"/> Self-certification by importer completed below. An importer must be able to demonstrate the nature of the ownership or control as well as the nature of any affiliation. 								
4. Certification - I certify that the practices and procedures used to produce the wine described in block 2 constitute proper cellar treatment under 26 U.S.C. 5382 and 27 CFR 27.140. Name and address of certifying entity: Authorized signature: Name (print or type): Date (DD/MM/YY):								
5. Analysis for wine described in block 2 <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Percentage alcohol (actual) by volume:</td> <td style="width: 50%;">Signature:</td> </tr> <tr> <td>Total sulphur dioxide (ppm):</td> <td>Name (print or type):</td> </tr> <tr> <td>Volatile acidity (grams per 100 mL):</td> <td>Date (DD/MM/YY):</td> </tr> <tr> <td colspan="2">Name and address of laboratory:</td> </tr> </table>	Percentage alcohol (actual) by volume:	Signature:	Total sulphur dioxide (ppm):	Name (print or type):	Volatile acidity (grams per 100 mL):	Date (DD/MM/YY):	Name and address of laboratory:	
Percentage alcohol (actual) by volume:	Signature:							
Total sulphur dioxide (ppm):	Name (print or type):							
Volatile acidity (grams per 100 mL):	Date (DD/MM/YY):							
Name and address of laboratory:								
6. TTB label approval identification number (required if certification is submitted subsequent to label approval):								

(d) *Preparation of Certification.* The following rules apply for the completion of the certification set forth in paragraph (c) of this section:

(1) Block 1 must state the legal name and address (including country) of the producer of the wine.

(2) Block 2 must include a complete description of the wine, including its brand name, year of production, class or type, and country of origin.

(3) The importer must check the applicable box in block 3:

(i) The importer must check box 3a and ensure that blocks 4 and 5 are completed if no alternative certification applies to the wine under paragraph (b)(2)(i) of this section.

(ii) If paragraph (b)(2)(i)(B) applies to the wine, the importer must check box 3b and complete the certification in block 4.

(4) If the certification is submitted subsequent to approval of a label, the importer must complete block 6 by including the TTB identification number from the certificate of label approval, TTB Form 5100.31.

(Approved by the Office of Management and Budget under control numbers 1513-0064 and 1513-0119)

[T.D. TTB-31, 70 FR 49483, Aug. 24, 2005, as amended by T.D. TTB-145, 81 FR 94206, Dec. 22, 2016]

Subparts J-K [Reserved]

Subpart L—Transfer of Distilled Spirits, Natural Wines, and Beer Without Payment of Tax, From Customs Custody to Distilled Spirits Plants, Bonded Wine Cellars, and Breweries

§ 27.171 General provisions.

(a) *Transfer of bulk distilled spirits from customs custody to bonded premises of a distilled spirits plant.* Imported distilled spirits 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 imported spirits by 26 U.S.C. 5001. Imported spirits so withdrawn and transferred to a distilled spirits plant may be redistilled or denatured only if of 185 degrees or more of proof, and may be withdrawn from the bonded premises of a distilled spirits plant for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled

spirits. Imported distilled 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 applicable provisions of 27 CFR part 19. However, distilled spirits plant proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody. The person operating the bonded premises of the distilled spirits plant to which imported spirits are transferred 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 importer shall thereupon be relieved of his liability for such tax.

(b) *Transfer of bulk natural wine from customs custody to a bonded wine cellar.* Imported “natural wine,” as defined in § 27.11, may, under the provisions of this subpart, be withdrawn in bulk by the proprietor of a bonded wine cellar from customs custody and transferred in bulk containers to the bonded wine cellar without payment of the internal revenue tax imposed on wine by 26 U.S.C. 5041. Imported wine so withdrawn and transferred 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 premises to which imported 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 importer is relieved of the liability for the tax.

(c) *Transfer of beer from customs custody to a brewery.* Imported bulk beer may, under the provisions of this subpart, be withdrawn by the proprietor of a bonded brewery from customs custody and transferred in bulk containers to brewery premises, without payment of the internal revenue tax imposed on beer by 26 U.S.C. 5051. Imported beer so withdrawn and transferred to bonded brewery premises may be withdrawn from a brewery's the premises of a distilled spirits plant for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic beer. The

§ 27.172

proprietor operating the bonded brewery premises to which imported 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 importer is relieved of the liability for the tax.

(26 U.S.C. 5232, 5364, and 5418)

[T.D. ATF-62, 44 FR 71719, Dec. 11, 1979, as amended by T.D. ATF-198, 50 FR 8558, Mar. 1, 1985; T.D. TTB-145, 81 FR 94207, Dec. 22, 2016; T.D. TTB-146, 82 FR 1134, Jan. 4, 2017; T.D. TTB-159, 85 FR 33542, June 2, 2020]

§ 27.172 Preparation of records and reporting of information for release of distilled spirits, natural wines, and beer without payment of tax.

(a) *Preparation of records.* (1) The person importing distilled spirits, natural wines, or beer under this subpart must prepare a transfer record according to § 27.138. A separate transfer record must be prepared for each conveyance. The importer must maintain these records and any records to substantiate the information required under paragraph (b) of this section, in accordance with the record retention requirements of § 27.137, 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 importer must prepare a package gauge record according to § 27.139 and maintain it with the transfer record.

(b) *Reporting information for release from customs custody.* In the case of distilled spirits, natural wines, and beer imported into the United States without payment of tax under this subpart, the importer, 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 re-

27 CFR Ch. I (4–1–23 Edition)

quired 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 as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation and make such records 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 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, 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.

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

[T.D. TTB-145, 81 FR 94207, Dec. 22, 2016]

§ 27.173 [Reserved]

§ 27.174 Tank cars and tank trucks to be sealed.

Where a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank car or tank truck, 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.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

[T.D. 6477, 25 FR 6208, July 1, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 27.175 Receipt of distilled spirits by consignee.

Proprietors of distilled spirits plants who receive imported spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. Proprietors of distilled spirits plants may receive such imported spirits even if they are exempt from bond requirements under § 19.151(d) of this chapter. However, proprietors are not required to file application on TTB Form 5100.16 to receive imported spirits from customs custody.

[T.D. ATF-198, 50 FR 8558, Mar. 1, 1985, as amended by T.D. TTB-145, 81 FR 94207, Dec. 22, 2016; T.D. TTB-146, 82 FR 1134, Jan. 4, 2017]

Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

SOURCE: 50 FR 9200, Mar. 6, 1985, unless otherwise noted.

§ 27.181 General.

(a) The United States or any of its Government agencies may, upon filing proper customs entry, withdraw imported distilled spirits free of tax from customs custody, as authorized by 26 U.S.C. 5313 and under the provisions of this subpart. Before any distilled spirits may be withdrawn, a permit to procure the spirits shall be obtained from the appropriate TTB officer. A bond is not required for any Government agency to procure and withdraw spirits free of tax under this subpart.

(b) The provisions of subpart N of part 22 of this chapter cover the withdrawal of domestically produced tax-free spirits for use of the United States or any of its Government agencies.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended, 1375, as amended (26 U.S.C. 5273, 5313))

§ 27.182 Application and permit, Form 5150.33.

(a) *General.* All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this

subpart as it refers to permits on Form 5150.33.

(b) *Application.* (1) A Government agency of the United States must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate TTB officer, Form 5150.33 will be returned to the agency.

(2) If a Government agency intends to withdraw spirits free of tax under this part and part 22 of this chapter, Form 5150.33 may be annotated to cover both types of withdrawals.

(3) A separate permit is not required for each port of entry. The application, Form 5150.33, may be completed to indicate the applicable ports of entry in which spirits will be withdrawn from customs custody.

(4) A Government agency may specify on its application that it desires a single permit authorizing all sub-agencies under its control to procure and withdraw spirits free of tax under this subpart and subpart N of part 22 of this chapter; or, each Government location may individually file an application for a permit, Form 5150.33.

(5) Each application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign on behalf of the head of an agency or sub-agency shall be furnished with the application.

(c) *Use of spirits.* Spirits withdrawn under this subpart may not be used for non-Government purposes.

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of customs, and forward the original to the appropriate TTB officer for cancellation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

[50 FR 9200, Mar. 6, 1985, as amended by T.D. ATF-474, 67 FR 11232, Mar. 13, 2002]

§ 27.183 Use of Government agency permit, Form 5150.33.

Each Government agency must retain the original of its permit, Form 5150.33, on file. In the case of an agency holding a single permit for use of its sub-agencies, an attachment to the permit must list all locations authorized to withdraw spirits free of tax from customs custody. When withdrawing spirits free of tax from a port of entry, the agency, if filing electronically, must file its TTB-issued permit number along with the filing of any other information required by U.S. Customs and Border Protection to be filed with the customs entry. If the agency is not filing electronically, rather than file the TTB-issued permit number, the agency must make a copy of the permit available to the customs officer upon request.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

[T.D. TTB-145, 81 FR 94207, Dec. 22, 2016]

§ 27.184 Information required for entry.

Government agencies importing tax-free spirits under this subpart must file, along with filing the customs entry or entry summary, the total quantity of the spirits to be entered and, if filing electronically, the permit number as required under § 27.183.

[T.D. TTB-145, 81 FR 94208, Dec. 22, 2016]

Subpart N—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6819, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 27.201 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 6819, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46865, Oct. 26, 1976]

§ 27.202 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of part 19, or subpart E of part 5 of this chapter, may be imported for packaging distilled spirits in the United States as provided in part 19 of this chapter.

[T.D. ATF-62, 44 FR 71720, Dec. 11, 1979]

§ 27.204 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be imported 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 importation of such bottles into the United States. For empty bottles, the bottler shall obtain approval from the appropriate TTB officer 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 import distinctive liquor bottles (filled), or, properly submitted TTB Forms 5100.31 to use distinctive liquor bottles (empty) which have been imported, 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 decision and the reasons therefor.

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

(Approved by the Office of Management and Budget under control number 1513-0020)

[T.D. ATF-114, 47 FR 43951, Oct. 5, 1982, as amended by T.D. ATF-242, 51 FR 39526, Oct. 29, 1986; T.D. ATF-474, 67 FR 11232, Mar. 13, 2002; T.D. TTB-145, 81 FR 94208, Dec. 22, 2016]

§ 27.205 [Reserved]

§ 27.206 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 imported into the United States.

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

[T.D. ATF-114, 47 FR 43951, Oct. 5, 1982, as amended at T.D. TTB-145, 81 FR 94208, Dec. 22, 2016]

§ 27.207 Bottles to be used for display purposes.

Empty liquor bottles may be imported and furnished to liquor dealers for display purposes, provided each bottle is marked to show that it is to be used for such purpose. The importer shall keep records 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.

[T.D. ATF-206, 50 FR 23956, June 7, 1985]

§ 27.208 Liquor bottles not eligible for release from customs custody.

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 offi-

cer determines that the nonconformance is due to an unintentional error; the nonconforming liquor bottle is determined not to be deceptive, as provided in § 27.206; and the entry of the nonconforming liquor bottle will not jeopardize the revenue. The person bringing such liquor bottles into the United States under TTB authorization must maintain proof of such authorization for not less than three years from the date that the liquor bottles were released from customs custody 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 94208, Dec. 22, 2016]

§ 27.209 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 exportation for reuse. The importer shall keep records of the receipt and disposition of used liquor bottles.

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

[T.D. 6954, 33 FR 6819, May 4, 1968, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. TTB-25, 70 FR 19883, Apr. 15, 2005; T.D. TTB-145, 81 FR 94208, Dec. 22, 2016]

Subpart O—Miscellaneous Provisions

§ 27.221 Alternate methods or procedures.

(a) *Application.* An importer or foreign producer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application with the appropriate TTB officer. Each application must:

- (1) Specify the name, address, and permit number of the importer or Foreign Producer ID of the foreign producer 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 must determine whether 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 such officer 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 an 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 officer. 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 22743, 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. ATF–474, 67 FR 11232, Mar. 13, 2002; T.D. TTB–145, 81 FR 94208, Dec. 22, 2016; T.D. TTB–186, 87 FR 58031, Sept. 23, 2022]

§ 27.222 Importation of denatured spirits and fuel alcohol.

Denatured spirits and fuel alcohol are treated as spirits for purposes of this part and are subject to tax pursuant to § 27.40(a). The tax must be paid upon importation, with only two exceptions: Spirits may be withdrawn from

customs custody free of tax for the use of the United States under subpart M of this part; and spirits may be withdrawn from customs custody and transferred to a distilled spirits plant, including a bonded alcohol fuel plant, without payment of tax under subpart L of this part. After transfer pursuant to subpart L, denatured spirits or fuel alcohol may be withdrawn free of tax in accordance with part 19 of this chapter if they meet the standards to conform either to a denatured spirits formula specified in part 21 of this chapter (for withdrawal from a regular distilled spirits plant) or a formula specified in § 19.746 of this chapter (for withdrawal from an alcohol fuel plant). Such withdrawal is permitted, even though the denaturation or rendering unfit for beverage use may have occurred, in whole or in part, in a foreign country. For purposes of this chapter, the denaturation or rendering unfit is deemed to have occurred at the distilled spirits plant (including the alcohol fuel plant), the proprietor of which is responsible for compliance with part 21 or § 19.746, as the case may be. Imported fuel alcohol shall also conform to the requirements of 27 CFR 19.742.

[T.D. TTB–140, 81 FR 59464, Aug. 30, 2016]

§§ 27.223–27.249 [Reserved]

Subpart P—Craft Beverage Modernization Act Import Refund Claims

SOURCE: T.D. TTB–186, 87 FR 58032, Sept. 23, 2022, unless otherwise noted.

§ 27.250 Scope.

This subpart contains procedural requirements relative to the refunds of internal revenue tax for imported alcohol made available under the Craft Beverage Modernization Act provisions of the Internal Revenue Code of 1986 at 26 U.S.C. 5001(c)(4), 5041(c)(7), and 5051(a)(6). The refunds available under this subpart apply only to imported products entered for consumption on or after January 1, 2023.

§ 27.252 Meaning of terms.

When used in this subpart and in forms prescribed under this subpart,

where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms have the meaning ascribed in this section. Words in the plural form include the singular, and vice versa.

CBMA. The Craft Beverage Modernization Act provisions (sections 13801–13808) of the law commonly known as the Tax Cuts and Jobs Act (Pub. L. 115–97), as amended.

CBMA importer refund claims system. The electronic system established by TTB for the collection and review of claims for refund of internal revenue tax authorized under § 27.264. The CBMA importer refund claim system is available at <https://www.TTB.gov>.

CBMA tax benefits. The reduced tax rates or tax credits made available under CBMA at 26 U.S.C. 5001(c)(1) (distilled spirits), 5041(c)(1) (wine), and 5051(a)(1) (beer), and made assignable to importers by foreign distilled spirits operations, wineries, and brewers pursuant to sections 5001(c)(3), 5041(c)(6), and 5051(a)(4), respectively.

Foreign producer. A foreign distilled spirits operation, wine producer, or brewer.

Foreign Producer ID. The identification number issued to a foreign producer registered with TTB under § 27.254.

Foreign producer registration and assignment system. The electronic system established by TTB for the collection of information related to the registration of a foreign producer under §§ 27.254 through 27.260 and the assignment of CBMA tax benefits by such foreign producer under § 27.262. The foreign producer registration and assignment system is available at <https://www.TTB.gov>.

§ 27.254 Registration of foreign producer.

(a) *General.* A foreign producer electing to assign CBMA tax benefits to one or more importers must first register with TTB and receive a Foreign Producer ID.

(b) *Information required in registration.* A foreign producer must provide the following information through the foreign producer registration and assignment system to register with TTB and receive a Foreign Producer ID:

(1) The name, country of residence, and principal business address of the foreign producer;

(2) The name, title, country of residence, phone number, and email address of an employee or individual owner of the business who has authority to act for the business;

(3) If different than the individual identified in paragraph (b)(2) of this section, the name, address, phone number, and email address of the individual submitting the registration and authorized to act on the foreign producer's behalf;

(4) The Food Facility Registration number(s) obtained from the U.S. Food and Drug Administration (FDA) under 21 CFR 1.225 that may be reported to FDA under 21 CFR 1.281(a)(6)(ii) for the purposes of importing into the United States the foreign producer's alcohol products;

(5) Identifying information for the individuals and/or entities with ownership interests in the foreign producer as required by § 27.256, or a certification that § 27.256 does not require the foreign producer to provide such identifying information;

(6) Any prescribed certifications attesting to the authority of the individual submitting the registration and the truthfulness of the information submitted, the acknowledgement by the person submitting the registration that providing erroneous or fraudulent information may cause TTB to revoke the foreign producer's eligibility to assign CBMA tax benefits, and consent to receive electronically any written notice of contemplated revocation;

(7) Any additional information required by the appropriate TTB officer (including, through the foreign producer registration and assignment system) in order to verify a submitter's identity. Such information may include identifying numbers (*e.g.*, Employer Identification Number, Social Security Number) as provided in 26 U.S.C. 6109; and

(8) Any additional information required by the appropriate TTB officer on a case-by-case basis, to administer CBMA.

(c) *Language.* All registration information must be submitted in the English language except an individual's

§ 27.256

name, the name of a company, and the name of a street may be submitted in a foreign language. All information, including these items, must be submitted using the English alphabet.

(d) *Electronic registration required.* The foreign producer must submit the information required by paragraph (b) of this section electronically using the format provided by TTB.

§ 27.256 Foreign producer ownership information.

(a) *When required.* A foreign producer must provide, as part of the registration required by § 27.254, the identifying information set forth in paragraph (b) of this section only when one or more of the individuals or entities holding an ownership interest in the foreign producer of 10 percent or more also holds an ownership interest in any distilled spirits operation, winery, or brewery in the United States or in any other foreign producer that has assigned or will assign CBMA tax benefits for any calendar year in which the registering foreign producer also assigns such benefits. Otherwise, the foreign producer must only certify that this scenario does not apply.

(b) *Identifying information*—(1) *Individual owner.* For each individual holding an ownership interest of 10 percent or more in the foreign producer, the foreign producer must provide the following information when required by paragraph (a) of this section:

(i) The name, address, and phone number of the individual.

(ii) [Reserved]

(2) *Other entity.* For each entity (other than an individual) holding an ownership interest of 10 percent or more in the foreign producer, the foreign producer must provide the following information when required by paragraph (a) of this section:

(i) The name, address, and phone number of the entity;

(ii) If the entity is a U.S. entity, and if the entity has such a number, the entity's Employer Identification Number issued by the U.S. Internal Revenue Service; and

(iii) If the entity is a foreign entity, and if the entity has such a number, the Dun & Bradstreet Data Universal

27 CFR Ch. I (4–1–23 Edition)

Numbering System number of the entity.

§ 27.258 Changes to foreign producer registration.

Whenever there is a change to any of the information submitted by the foreign producer under § 27.254, the foreign producer must update its registration with the new information within 60 days. Whenever the appropriate TTB officer determines that a foreign producer has failed to update its registration information as required, the foreign producer's registration is deemed invalid and the foreign producer will be unable to assign CBMA tax benefits until the foreign producer updates its registration as required or the appropriate TTB officer is satisfied that no such update is required.

§ 27.260 Persons authorized to act on behalf of foreign producer.

(a) *General.* A foreign producer registered with TTB to assign CBMA tax benefits must identify at least one person authorized to act on its behalf. The person who initially registers a foreign producer under § 27.254 must have authorization from the foreign producer to provide the required registration information, edit the foreign producer's registration information, designate additional persons who are also authorized by the foreign producer to act on the foreign producer's behalf or cancel the designations of authorized persons, and make assignments of CBMA tax benefits. All authorized representatives of the foreign producer must have authority to receive and respond to communications from TTB, including notice of contemplated revocation under § 27.268(b).

(b) *Authorization of additional persons.*

(1) A foreign producer may authorize more than one person to act on its behalf within the foreign producer registration and assignment system. To designate an additional person as described above, the foreign producer must provide the following information:

(i) The name and email address of the person; and

(ii) The appropriate system role for the person, based on the functions in

paragraph (a) of this section that the person is authorized to carry out.

(2) TTB may collect additional information from the additional person, as needed, to verify their identity. Such information may include identifying numbers (e.g., Social Security Number) as provided in 26 U.S.C. 6109.

(c) *Proof of authority.* An individual acting on behalf of the foreign producer in the foreign producer registration and assignment system must maintain documentation establishing the individual's authority to act for the foreign producer and provide this documentation to TTB upon request. Any representative must be authorized by the foreign producer pursuant to a duly executed power of attorney or other document deemed acceptable to the appropriate TTB officer.

§ 27.262 Foreign producer's assignment of CBMA tax benefits.

(a) *General.* A foreign producer who has registered with TTB under § 27.254 and received a Foreign Producer ID may assign its CBMA tax benefits to importers, subject to the quantity limitations established by law.

(b) *Information required in assignment.* A foreign producer must provide the following information through the foreign producer registration and assignment system to make an assignment of CBMA tax benefits to an importer:

(1) The calendar year for which the CBMA tax benefits are being assigned;

(2) The TTB importer permit number or TTB-assigned reference number of the importer to whom the assignment is made;

(3) The Internal Revenue Code classification of the product for which the assignment is made, either distilled spirits, wine, or beer;

(4) The reduced tax rate or tax credit being assigned, either:

(i) For distilled spirits:

(A) The reduced tax rate of \$2.70 per proof gallon on the first 100,000 proof gallons imported in the calendar year; or

(B) The reduced tax rate of \$13.34 per proof gallon on the next 22.13 million proof gallons imported in the calendar year;

(ii) For wine:

(A) The tax credit of \$1 per wine gallon on the first 30,000 wine gallons of wine imported in the calendar year (or credit of 6.2 cents per wine gallon for wine classified as "hard cider");

(B) The tax credit of 90 cents per wine gallon on the next 100,000 wine gallons imported in the calendar year (or credit of 5.6 cents per wine gallon for wine classified as "hard cider"); or

(C) The tax credit of 53.5 cents per wine gallon on the next 620,000 wine gallons imported in the calendar year (or credit of 3.3 cents per wine gallon for wine classified as "hard cider");

(iii) For beer, the reduced tax rate of \$16 per barrel on the first 6,000,000 barrels imported in the calendar year;

(5) The quantity by proof gallons, wine gallons, or beer barrels of the reduced tax rate or tax credit being assigned; and

(6) Any prescribed certifications attesting to the submitter's authority and the submitter's acknowledgement of statutory limitations on the quantities of assignments that may be made; and

(7) Any additional information required by the appropriate TTB officer on a case-by-case basis to administer CBMA.

(c) *Limitations*—(1) *General.* Quantities that may be assigned are limited to the number of proof gallons, wine gallons, and beer barrels in paragraph (b)(4) of this section, and also cannot exceed the quantities of the foreign producer's distilled spirits, wine, and beer that are reasonably projected to be imported into the United States during the specified calendar year by the importer receiving the assignment.

(2) *Controlled group rules.* Foreign and/or domestic producers under common ownership are grouped together when applying the quantity limitations in paragraph (c)(1) of this section. The quantity limitations apply to:

(i) Foreign and/or domestic producers in a "parent-subsidiary controlled group," as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

(ii) Foreign and/or domestic producers in a "brother-sister controlled group," as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

§ 27.264

27 CFR Ch. I (4–1–23 Edition)

(iii) Foreign and/or domestic producers in a “combined group,” as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

(iv) Shared ownership structures similar to those described in paragraphs (c)(2)(i) through (iii) of this section, but where one or more producers under common ownership is not a corporation.

(d) *Timing.* Assignments of CBMA tax benefits may be submitted to TTB beginning no earlier than October 1st of the calendar year prior to the year for which the CBMA tax benefits are to be assigned. Assignments of CBMA tax benefits must be submitted on or before December 31st of the calendar year for which the CBMA tax benefits are assigned.

(e) *Changes to assignments.* Once made, a foreign producer may not revoke or reduce an assignment of CBMA tax benefits unless the assignee importer has rejected the assignment.

(f) *Electronic registration required.* The foreign producer must submit the information required by paragraph (b) of this section electronically using the format provided by TTB.

§ 27.264 CBMA import refund claim submission.

(a) *General.* An importer who has elected to receive an assignment of CBMA tax benefits from a foreign producer may file a claim in accordance with this section for a partial refund of the tax paid to Customs and Border Protection (CBP) on alcohol produced by the assigning foreign producer and imported into the United States by that importer. Refunds are to be determined no more frequently than quarterly. The amount of refund is calculated as provided at 26 U.S.C. 5001(c)(4)(B) for distilled spirits, 5041(c)(7)(B) for wine, and 5051(a)(6)(B) for beer, on such products entered for consumption within the calendar quarter and for which the importer has received an assignment of CBMA tax benefits and paid to CBP the tax determined on such products.

(b) *Election to receive CBMA tax benefits.* An importer who has been assigned CBMA tax benefits by a foreign producer is presumed to have elected to receive such assignment unless and

until the importer rejects the assignment through the online system prior to filing a claim for a refund based on that assignment.

(c) *Information required at entry summary.* To be eligible for a refund described in paragraph (a) of this section, the importer must submit electronically the information required by § 27.48(a)(2) for distilled spirits, wines, and beer imported into the United States subject to tax (in satisfaction of § 27.48(a)(2), an importer who does not have and is not required to obtain an FAA Act basic permit must instead submit its TTB-assigned reference number obtained under § 27.266). The importer must also indicate its intent to claim a refund on the entry summaries of the consumption entries for the alcohol subject to the prospective claim, either at the time of entry summary or through post-summary correction. These entry summaries must include the following information for each line item to be included in a claim for refund, in the electronic format prescribed by CBP:

(1) The TTB-issued Foreign Producer ID of the foreign producer who assigned CBMA tax benefits to the importer;

(2) The name of the foreign producer who assigned CBMA tax benefits to the importer;

(3) A statement of whether the importer is using an eligible flavor content credit pursuant to §§ 27.76 and 27.77; and

(4) An indicator or set of indicators specifying the particular CBMA reduced tax rate or tax credit assigned by the foreign producer of the alcohol.

(d) *Information required in claim submission.* To submit a claim for a refund described in paragraph (a) of this section, the importer must submit and/or verify, as appropriate, within the CBMA importer refund claims system the following information for each consumption entry line item to be included in the claim:

(1) The date of the entry for consumption;

(2) The year of importation, if different than the year of the entry for consumption;

(3) The entry summary number and the entry summary line number;

(4) The particular CBMA reduced tax rate or tax credit assigned by the foreign producer of the alcohol;

(5) The quantity of proof gallons, wine gallons, or beer barrels entered for consumption subject to the rate or credit identified in paragraph (d)(4) of this section;

(6) The TTB-issued Foreign Producer ID of the foreign producer who assigned CBMA tax benefits to the importer;

(7) The amount of tax determined and paid by the importer;

(8) The amount of the refund sought by the importer;

(9) Information allowing the appropriate TTB officer to arrange payment to the importer of the refund;

(10) Any prescribed certifications attesting to submitter's authority and the truthfulness of the information submitted; and

(11) Any additional information, as needed by TTB on a case-by-case basis, to administer CBMA.

(e) *Timing of claim submission.* Claims under this section may be submitted only after the end of the calendar quarter in which the entries for consumption were filed. The calendar quarters end on March 31, June 30, September 30, and December 31. Claims must be filed within the limitations period set forth at 26 U.S.C. 6511.

(f) *Authorization.* Each person authorized to sign or act on behalf of the importer must be authorized pursuant to a duly executed power of attorney. TTB may collect additional information from the authorized person, as needed, to verify their identity. Such information may include identifying numbers (e.g., Social Security Number) as provided in 26 U.S.C. 6109.

(g) *Electronic filing required.* To be eligible for a refund under this section, an importer must submit the information required by paragraphs (c) and (d) of this section electronically in the formats prescribed by CBP and TTB, respectively.

§ 27.266 Importer reference number.

An importer who does not have and is not required to obtain an FAA Act basic permit must request and receive a reference number from the appropriate TTB officer before receiving assignments of CBMA tax benefits from

foreign producers under § 27.262. The importer must provide this reference number to any foreign producers that will assign CBMA tax benefits to the importer.

§ 27.268 Revocation of eligibility for CBMA tax benefits.

(a) *Revocation of foreign producer's eligibility.* A foreign producer who provides erroneous or fraudulent information that the appropriate TTB officer determines is material to the eligibility of the foreign producer to assign CBMA tax benefits under § 27.262 may have such eligibility revoked, for a period not to exceed three calendar years following the year of revocation, under the procedures set forth in paragraphs (b) through (e) of this section. If the foreign producer has previously had its eligibility revoked under this section, any subsequent revocation may instead be permanent. In any case where a criminal conviction results from the foreign producer's providing of erroneous or fraudulent information as described above, eligibility will be permanently revoked.

(b) *Notice of contemplated revocation.* Where the appropriate TTB officer has reason to believe that a foreign producer, including anyone acting on behalf of a foreign producer, has provided erroneous or fraudulent information as described in paragraph (a) of this section, such officer will provide a written notice of contemplated revocation to the foreign producer. Such notice will set forth the facts and analysis supporting the contemplated revocation, as well as the period of contemplated revocation. Written notice will be provided electronically to persons authorized to act on behalf of the foreign producer within the online foreign producer registration and assignment system as provided in § 27.260.

(c) *Response to contemplated revocation.* A foreign producer in receipt of a notice of contemplated revocation, or its representative, may submit a written response to the appropriate TTB officer explaining why the foreign producer believes the information at issue was not erroneous or fraudulent, or why such information is not material to the foreign producer qualifying for CBMA tax benefits. This response must

be submitted within 45 days of receipt of the written notice of contemplated revocation and must be submitted electronically through means specified in such notice. Any representative of the foreign producer in these proceedings must be authorized by the foreign producer pursuant to a duly executed power of attorney or other document deemed acceptable to the appropriate TTB officer. If the foreign producer does not submit a response within 45 days, the appropriate TTB officer will issue an order of revocation as set forth in paragraph (d) of this section.

(d) *Revocation determination.* Following receipt of a foreign producer's response to a contemplated revocation, the appropriate TTB officer will consider the arguments raised in the response and issue an order either dismissing the contemplated revocation or imposing a revocation as authorized under paragraph (a) of this section. Any order imposing revocation will set forth the facts and analysis supporting the revocation, taking into consideration any response provided by the foreign producer under paragraph (c) of this section. The order will be provided electronically to the foreign producer or the foreign producer's representative in the matter.

(e) *Review—(1) Appeal.* A foreign producer may appeal an order of revocation issued under paragraph (d) of this section by submitting a written appeal to the appropriate TTB officer within 45 days of receipt of such order. The appeal must explain why the foreign producer believes its revocation is in error, supported by facts and analysis. The appeal must be submitted electronically through the means specified in the order of revocation. The appropriate TTB officer will issue a final decision by notifying the foreign producer within 90 days of receipt of the appeal whether the appeal is granted or denied, and the reasons for the determination. The appropriate TTB officer may extend this period of time once by an additional 90 days if the appropriate TTB officer requires additional time to consider the issues presented by an appeal and must notify the foreign producer of the extension within the initial 90-day period. If the appropriate TTB officer fails to issue a decision

granting or denying the appeal within the applicable deadline, the appeal is denied and such denial will be considered a final decision.

(2) *Judicial review.* A final decision from the appropriate TTB officer following appeal is required prior to application to the Federal courts for review of any order of revocation.

(f) *Notice to affected importers.* In any instance where an order imposing revocation of a foreign producer's eligibility for CBMA tax benefits is issued under paragraph (d) of this section, the appropriate TTB officer will notify any importer having an assignment of CBMA tax benefits from that foreign producer of the revocation. In the event that the revocation is appealed and the appeal is granted pursuant to paragraph (e) of this section, the appropriate TTB officer will notify any importer having an assignment from that foreign producer of the dismissal of such revocation.

PART 28—EXPORTATION OF ALCOHOL

Subpart A—Scope

Sec.

- 28.1 General.
- 28.2 Forms prescribed.
- 28.3 Related regulations.
- 28.4 Delegations of the Administrator.

Subpart B—Definitions

- 28.11 Meaning of terms.

Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

- 28.20 Alternate methods or procedures; and emergency variations from requirements.
- 28.21 General.
- 28.22 Vessels employed in the fisheries.
- 28.23 Reciprocating foreign countries.

MANUFACTURING BONDED WAREHOUSES

- 28.25 General.

CUSTOMS BONDED WAREHOUSES

- 28.26 Entry of distilled spirits into customs bonded warehouses.
- 28.27 Entry of wine into customs bonded warehouses.
- 28.28 Withdrawal of wine and distilled spirits from customs bonded warehouses.