

Title 27: Alcohol, Tobacco and Firearms

PART 19

DISTILLED SPIRITS PLANTS (DSP)

(Exerpts from TTB Regulations pertaining to DSP qualifications and bonds – Visit www.ttb.gov and search the Code of Federal Regulations, Part 19 for a complete copy of applicable regulations.)

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Authority:

19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Source:

T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, unless otherwise noted.

Editorial Note:

Nomenclature changes to part 19 appear by T.D. ATF–463 and T.D. ATF–462, 66 FR 42733, 42736, Aug. 15, 2001.

Penalties of Perjury

§ 19.100 Execution under penalties of perjury.

- (a) **Declaration.** When a return, claim, form, or other document called for under this part, or in the instructions thereon, is required to be executed under penalties of perjury, it shall contain the following declaration:

I declare under the penalties of perjury that this (insert type of document, such as report, or claim), including supporting documents, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

- (b) **Signing.** The declaration shall bear the signature and title of the proprietor or other duly authorized person.

(Act of August 16, 1954, Pub. L. 591—Chapter 736, 68A Stat. 749 (26 U.S.C. 6065))

Subpart F - Location and Use

§ 19.131 Restrictions as to locations.

Distilled spirits plants shall not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is produced, or liquors of any description are retailed, or (except as provided in §19.133) on premises where any other business is conducted.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.132 Continuity of premises.

The continuity of the distilled spirits plant shall be unbroken except for separations by public waterways, thoroughfares, or carrier rights-of-way. However, where there are other separations of the plant premises and all parts of the plant premises are in the same general location, the appropriate TTB officer may approve the registration of the distilled spirits plant if he finds no jeopardy to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.133 Use of distilled spirits plant premises.

- (a) **General.** No business or operation shall be conducted on the premises of a distilled spirits plant other than those authorized in accordance with subpart D of this part or those authorized to be carried on or conducted by the notice of registration.

- (b) **Bonded premises.** Bonded premises shall be used exclusively for distilled spirits operations. Spirits in packages, cases, or other portable containers on bonded premises shall be stored in a room or building. However, upon application by the proprietor, appropriate TTB officer may approve an alternative method of storage of such spirits if such method is suitable for the protection of the revenue and the effective administration of this part.

- (c) **General premises.** General premises are any portion of the distilled spirits plant described in the notice of registration other than bonded premises. General premises may not be used for any of the operations required to be conducted on bonded premises. Business offices and service facilities may be included as a part of general premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

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

- (a) **Criteria for establishment.**

- (1) A bonded warehouse, other than one established on the bonded premises of a distilled spirits plant qualified for production of spirits, or contiguous to a distillery operated by the warehouseman, may be established if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of bulk distilled spirits.
- (2) When commercial bonded warehouses are not available in an area and it is impractical to have a warehouse of 250,000 wine gallon capacity, the appropriate TTB officer may approve the establishment of a warehouse without regard to the minimum storage requirements.

- (b) **Application.**

- (1) The application for registration to establish a warehouse shall be accompanied by a separate written application setting forth the necessity for the establishment of the warehouse.
- (2) The application shall include:
 - (i) Approximate quantity of bulk spirits that will be received, stored, and withdrawn annually;
 - (ii) Probable number of depositors of spirits;

- (iii) Approximate number of persons to be served from the warehouse; and
- (iv) Data or documents indicating the prospective volume of business or need for establishment.

(c) **Approval.**

- (1) The appropriate TTB officer may approve the application for registration if the proposed location of the warehouse will not be a jeopardy to the revenue and there is satisfactory evidence of the need for establishing a warehouse.
- (2) The appropriate TTB officer may also limit the type of operation to be conducted at a bonded warehouse established with less than the minimum storage requirements.

- (d) **Special condition.** The proprietor of a warehouse established for a limited type of operation shall not, in any manner, expand or change his operation to include any other type of operations until, pursuant to written application to make such change, he has obtained the approval of the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178); sec. 805a, Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

Subpart G - Qualification of Distilled Spirits Plants

§ 19.151 General requirements for registration.

- (a) **Operations.** Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person qualified to carry out such operations under this subpart.
- (b) **Establishment.** A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.
- (c) **Registration.** Each person shall, before commencing operations at a distilled spirits plant, make application for and receive notice of registration of his plant with respect to such operations as provided in this part. Application for registration shall be made on Form 5110.41 to the appropriate TTB officer. Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof. The appropriate TTB officer may, in any instance where the

outstanding notice of registration is inadequate or incorrect in any respect, require the filing of an application on Form 5110.41 to amend the notice of registration, specifying the respects in which amendment is required. Within 60 days after the receipt of such notice, the proprietor shall file such application.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

§ 19.152 Data for application for registration.

Application on Form 5110.41 shall include the following information:

- (a) Serial number and statement of purpose for which filed.
- (b) Name and principal business address of the applicant, and the location of the distilled spirits plant if different from the business address.
- (c) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in §19.167.
- (d) Statement of the operations to be conducted.
- (e) In respect of the plant to which the Form 5110.41 relates, a list of applicant's operating and basic permits, and of the operations, withdrawal, or unit bonds (including those filed with the application) with the name of the surety or sureties for each bond.
- (f) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the proprietor's name.
- (g) Description of the plant (see §19.168).
- (h) List of major equipment (see §19.166).
- (i) Statement of maximum proof gallons that will be produced in the distillery during a period of 15 days, stored on bonded premises, and in transit to the bonded premises. (Not required if the operations or unit bond is in the maximum sum.)
- (j) With respect to any distilled spirits plant which was not qualified to operate before June 1, 1985 a certified statement that relevant and material accounting records (including regular books of account and such other records and data as may be necessary to support such records) will be maintained in accordance with generally accepted accounting principles which enable the proprietor to file a correct distilled spirits tax

return or determine whether he is liable for distilled spirits taxes.

- (k) Statement of physical security measures employed (see §19.153).
- (l) As applicable, the following:
 - (1) With respect to the operations of a distiller:
 - (i) Statement of daily producing capacity in proof gallons.
 - (ii) Statement of production procedure (see §19.170).
 - (iii) Statement whether spirits will be redistilled.
 - (2) With respect to the operations of a warehouseman:
 - (i) Description of the system of storage.
 - (ii) Statement of bulk storage capacity in wine gallons.
 - (3) With respect to the operations of a processor:
 - (i) Statement whether bottling operations will be conducted.
 - (ii) Statement whether denaturing operations will be conducted.
 - (iii) Statement whether articles will be manufactured.
 - (iv) Statement whether spirits will be redistilled.
 - (v) Description of the system of storage of spirits bottled and cased or otherwise packaged or placed in approved containers for removal from bonded premises.
 - (4) If any other business is to be conducted on the distilled spirits plant premises, as provided by subpart D of this part, a description of the business, a list of the buildings and/or equipment to be used, and a statement as to the relationship, if any, of the business to distilled spirits operations at the plant.

If any of the information required by paragraph (c) of this section is on file with the appropriate TTB officer, that information, if accurate and complete, may by incorporation by reference, be made part of the application. The applicant shall, when required by the appropriate TTB officer, furnish as a part of the application for registration, additional information as may be necessary to determine whether the

application for registration should be approved.

(68 A Stat. 731, as amended (26 U.S.C. 6001); sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.153 Statement of physical security.

(a) **Content.** The statement of security shall include:

- (1) A general description of the physical security at the distilled spirits plant, including methods utilized to secure buildings and outdoor tanks;
- (2) A statement whether guard personnel are employed;
- (3) A statement whether any electronic or mechanical alarm system is used;
- (4) A statement certifying that locks used meet the specifications provided in paragraph (e) of §19.281;
- (5) A list of persons by position or title having responsibility for the custody of and access to keys for approved locks used at the distilled spirits plant.

(b) **Changes.** The proprietor shall file an application for amended registration with the appropriate TTB officer for any change in personnel or procedures contained in the statement of security.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.154 Notice of registration.

The application for registration, when approved, shall constitute the notice of registration of the distilled spirits plant. A distilled spirits plant shall not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or operations in which the applicant intends to engage. A plant shall not be operated unless the proprietor has a valid notice of registration covering the businesses and operations to be conducted at such plant. In any instance where a bond is required to be given or a permit is required to be obtained with respect to a business or operation before notice of registration of the plant may be received with respect thereto, the notice of registration shall not be valid with respect to such business or operation in the event that such bond or permit is no longer in effect. An application for reregistration shall be filed and notice of registration again obtained before engaging in such business or operation at such plant. Reregistration is not

required when a new bond or a strengthening bond is filed pursuant to §19.246 or 19.247.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); sec. 805a, Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.155 Maintenance of registration file.

The proprietor shall maintain the registration file in looseleaf form in complete and current condition, readily available at the plant for inspection by appropriate TTB officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

§ 19.156 Powers of attorney.

The proprietor shall execute and file with the appropriate TTB officer a Form 1534 (5000.8) for each person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application for registration.)

(See 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

§ 19.157 Operating permits.

(a) **General.** Except as provided in paragraph (b) of this section, each person required to file an application for registration under §19.151 shall make application for and obtain an operating permit before commencing any of the following operations:

- (1) Distilling for industrial use.
- (2) Warehousing of spirits for industrial use.
- (3) Denaturing spirits.
- (4) Warehousing of spirits (without bottling) for nonindustrial use.
- (5) Bottling or packaging of spirits for industrial use.
- (6) Manufacturing articles.
- (7) Any other distilling, warehousing, or processing operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978, 27 U.S.C. 203, 204). Application for such operating permit shall be made on Form 5110.25 to the appropriate TTB officer.

(b) **Exceptions.** The provisions of paragraph (a) of this section shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for the agency.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.158 Data for application for operating permits.

Each application on Form 5110.25 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 5110.25 shall include the following information:

- (a) Name and principal business address of the applicant.
- (b) Plant address, if different from the business address.
- (c) Description of the operation to be conducted for which an operating permit must be obtained.
- (d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in §19.167.
- (e) Trade names (see §19.165).
- (f) On specific request of the appropriate TTB officer, furnish a statement as to whether the applicant or any of the persons whose names and addresses are required to be furnished under the provisions of §19.167(a)(2) and (c) has ever:
 - (1) Been convicted of a felony or misdemeanor under Federal or State law;
 - (2) Been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to paragraphs (f)(1) and (f)(2) of this section, if these violations are not felonies); or
 - (3) Applied for, held, or been connected with a permit, issued under Federal law to manufacture, distribute, sell or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of the permit, the period of operation, and state in detail whether the permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) or (f)(3) of this section is on file with the appropriate TTB officer, the applicant may, by incorporation or by reference, state that the information is made a part of the application for an operating

permit. The applicant shall, when required by the appropriate TTB officer, furnish as a part of his application for an operating permit additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to the permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.159 Issuance of operating permits.

Only one operating permit will be issued for a plant. The operating permit shall designate the operations permitted. All of the provisions of this part relating to the performance of the operations covered by the permit shall be included in the provisions and conditions of the permit. Operating permits shall be kept posted available for inspection at the distilled spirits plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.160 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in §19.163, or voluntarily surrendered. The provisions of §19.181 shall be a part of the terms and conditions of all operating permits issued under this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.161 Denial of permit.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation), the appropriate TTB officer has reason to believe that—

- (a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued thereunder; or
- (b) The applicant has failed to disclose any material information required, or has made any false statement, as to any material fact, in connection with the application; or
- (c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue; the appropriate TTB officer may institute proceedings for the denial of the application in accordance with the procedures set forth in 27 CFR part 71.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.162 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the appropriate TTB officer, immediately return the permit for correction.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.163 Suspension or revocation.

Whenever the appropriate TTB officer has reason to believe that any person holding an operating permit—

- (a) Has not in good faith complied with the provisions of 26 U.S.C. Chapter 51, or regulations issued thereunder; or
- (b) Has violated conditions of the permit; or
- (c) Has made any false statement as to any material fact in the application therefor; or
- (d) Has failed to disclose any material information required to be furnished; or
- (e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C. punishable as a felony or of any conspiracy to commit such offense; or
- (f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the appropriate TTB officer may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR part 71.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.164 Rules of practice in permit proceedings.

The regulations in 27 CFR part 71 are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and in connection with the suspension and revocation of such permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.165 Trade names.

- (a) **Operating permits.** Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list that trade name on Form 5110.25 (showing the operations in which each trade name will be used) and the offices where the trade name is registered, supported by

copies of any certificate or other document filed or issued in respect to the trade name.

- (b) **Basic permits.** Where any distilling, warehousing, or processing operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; **27 U.S.C. 203, 204**), regulations issued under such Act govern the approval and use of trade names for those operations.
- (c) **Conditions.** Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (**26 U.S.C. 5271**))

§ 19.166 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

- (a) Tanks (serial number and capacity) used in the production, storage and processing of distilled spirits, wine, denatured spirits and articles;
- (b) Stills (serial number, kind, capacity and intended use). The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates; and
- (c) Condensers (serial number).

A statement of certification of accurate calibration shall be included in the description of tanks that are to be used for gauging distilled spirits or wine for any purpose.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1352, as amended (**26 U.S.C. 5172, 5179**))

§ 19.167 Organizational documents.

The supporting information required by [paragraph \(c\) of §19.152](#), and [paragraph \(d\) of §19.158](#), includes, as applicable, copies of—

- (a) **Corporate documents.**
 - (1) Corporate charter or a certificate of corporate existence or incorporation.
 - (2) List of directors and officers, showing their names and addresses.
 - (3) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.
 - (4) Statement showing the number of shares of each class of stock or other evidence of

ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

- (b) **Articles of partnership.** Copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

- (c) **Statement of interest.**

- (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the appropriate TTB officer.

- (2) In the case of an individual owner or partnership, the name and address of each person interested in the plant, whether the interest appears in the name of the interested party or in the name of another for that person.

- (d) **Availability of additional corporate documents.**

The originals of documents required to be submitted under this section and additional documents which may be required by the appropriate TTB officer such as the articles of incorporation, bylaws, and State certificate authorizing operations shall be made available to any appropriate TTB officer upon request.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (**26 U.S.C. 5172, 5271**))

§ 19.168 Description of plant.

- (a) The application for registration shall include a description of each tract of land comprising the distilled spirits plant.
- (b) The description shall:
 - (1) Clearly indicate the bonded premises and any general premises included as part of the distilled spirits plant; and
 - (2) Contain directions and distances in sufficient detail to enable appropriate TTB officers to readily determine the boundaries of the plant.

- (c) Each building and outside tank used for the production, storage and processing of spirits, denatured spirits, articles, or wines shall be described by location, size, construction, and arrangement with reference to each by its designated number or letter.
- (d) If a plant includes a room or floor in a building, a description of the building in which the room or floor is situated and its location shall be given.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

§ 19.169 Registry of stills.

The provisions of [subpart C of part 29](#) of this chapter are applicable to stills or distilling apparatus located on plant premises used for distilling. As provided under [§29.55](#), the listing of a still in the application for registration, and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1355, as amended (26 U.S.C. 5172, 5179))

[T.D. ATF–207, 50 FR 23681, June 5, 1985]

§ 19.170 Statement of production procedure.

The statement of production procedure in the application for registration shall set forth a step-by-step description of the procedure employed to produce spirits from an original source, commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, purifying and refining procedure to the production gauge. The kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits shall be shown.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

Operations by Alternating Proprietors

§ 19.201 Procedure for alternating proprietors.

- (a) **General.** A plant, or any part thereof which is suitable for qualification as a separate plant, may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas, rooms or buildings or combination thereof, which will be alternated, and shall be accompanied by special diagrams designating the parts of the plant which are to be alternated. A special diagram shall be submitted for each arrangement under which the premises will be

operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated by the proprietor filing notices on Form 5110.34 with the appropriate TTB officer. Any transfer of spirits, idenatured spirits, and wines shall be indicated on Form 5110.34 filed by each proprietor.

- (b) **Production.** Distilling materials and unfinished spirits in any bonded areas, rooms or buildings to be alternated shall be processed to completion by the outgoing proprietor unless transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor.
- (c) **Storage.** Spirits and wines in any bonded areas, rooms, or buildings to be alternated shall be transferred in bond to the incoming proprietor. The outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the areas, rooms, or buildings is to be resumed by him following suspension of operations by an alternate proprietor.
- (d) **Processing.** Spirits, denatured spirits, wines and articles in any rooms, areas, or buildings to be alternated shall be processed to completion and removed from the affected areas, rooms, or buildings by the outgoing proprietor prior to the effective date and hours given in the notice unless transferred or retained in locked tanks as provided in this paragraph. Spirits, denatured spirits, and wines may be transferred to the incoming proprietor. Further, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the affected areas, rooms, or buildings is to be resumed by him following suspension of operations by the alternate proprietor. Denatured spirits and articles may be retained in tanks locked by approved locks, the keys to which are in the custody of the outgoing proprietor. In this case, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue liability on the operations or unit bond for the tax on such denatured spirits or articles retained in such tanks, notwithstanding the change in proprietorship.
- (e) **Records.** Each proprietor shall maintain separate records and submit separate reports. Records kept by the outgoing proprietor for spirits, wines, and alcoholic flavoring materials may be used by the incoming proprietor. All transfers of distilling materials, unfinished spirits,

spirits, denatured spirits, and wines shall be reflected in the records of each proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

Alternate Operations

§ 19.202 Alternate use of premises and equipment for customs purposes.

- (a) **General.** The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the facilities of the distilled spirits plant to be used temporarily by customs officers, under applicable customs law and regulations, for the purpose of gauging or processing distilled spirits. The use of the excluded portion of the premises for customs purposes is subject to the approval of the district director of customs. When it is necessary to convey spirits in customs custody across the premises of a distilled spirits plant, the proprietor shall comply with the provisions of §19.99. When a portion of the distilled spirits plant premises is first to be excluded as provided in this section, the proprietor shall file with the appropriate TTB officer
- (1) an application for registration, Form 5110.41, to cover alternate curtailment and extension of premises, and
 - (2) a special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence. Once such qualifying documents have been approved by the appropriate TTB officer, the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits from the premises or equipment affected by the notice prior to the effective date and hours of the notice. However, on release by customs, spirits being transferred to bonded premises under 26 U.S.C. 5232, may remain on the premises to be reincluded in bonded premises.
- (b) **Separation of premises.** The portion of the premises which is to be excluded from the distilled spirits plant premises as provided in this section shall be separated from the remaining

portion of the distilled spirits plant premises in a manner which satisfies the appropriate TTB officer that the revenue will not be jeopardized.

- (c) **Exception.** Notwithstanding the provisions of paragraphs (a) and (b) of this section, the bonded premises may be used temporarily without filing Form 5110.41 or Form 5110.34, for the sole purpose of gauging bulk distilled spirits to effect their transfer from customs custody to TTB bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1358, as amended (26 U.S.C. 5172, 5178))

§ 19.203 Alternation of distilled spirits plant and bonded wine cellar premises.

- (a) **General.** A proprietor of a distilled spirits plant operating a contiguous bonded wine cellar desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the appropriate TTB officer.
- (b) **Qualifying documents.** The proprietor shall file with the appropriate TTB officer:
- (1) Form 5110.41 and Form 5120.25 to cover the proposed alternation of premises;
 - (2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and
 - (3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.
- (c) **Proprietor's responsibility.** After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34 each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits, denatured spirits, articles, and wines from the distilled spirits plant premises alternated to bonded wine cellar premises. Any wine on bonded wine cellar premises shall be removed prior to alternation to distilled spirits plant premises unless wine is being simultaneously transferred in bond to the distilled spirits plant.
- (d) **Separation of premises.** Separation of distilled spirits plant premises from bonded wine cellar premises after alternation shall be in a manner

which satisfies the appropriate TTB officer that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

§ 19.204 Alternation of distilled spirits plant and taxpaid wine bottling house premises.

- (a) **General.** A proprietor of a distilled spirits plant operating a contiguous taxpaid wine bottling house desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the appropriate TTB officer.
- (b) **Qualifying documents.** The proprietor shall file with the appropriate TTB officer:
 - (1) Form 5110.41 and Form 5120.25 to cover the proposed alternation of premises;
 - (2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and
 - (3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.
- (c) **Proprietor's responsibility.** After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34 each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits, denatured spirits, articles, and wines from the distilled spirits plant premises alternated to taxpaid wine bottling house premises. Any wine on taxpaid wine bottling house premises shall be removed prior to alternation to distilled spirits plant premises.
- (d) **Separation of premises.** Separation of distilled spirits plant premises from taxpaid wine bottling house premises after alternation shall be in a manner which satisfies the appropriate TTB officer that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–344, 58 FR 40354, July 28, 1993]

§ 19.205 Alternate curtailment and extension of bonded premises for use as general premises.

- (a) **General.** The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the bonded premises of the distilled spirits plant to be used temporarily as general premises, or to permit the general premises of a distilled spirits plant to be used temporarily as bonded premises.
- (b) **Qualifying documents.** When a portion of the distilled spirits plant premises is first to be curtailed or extended as provided in this section, the proprietor shall file with the appropriate TTB officer—
 - (1) An application for registration, Form 5110.41, to cover alternate extension and curtailment of the premises, and
 - (2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence.
- (c) **Proprietor's responsibility.** Once such qualifying documents have been approved by the appropriate TTB officer, the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits, denatured spirits, articles, and wines from the premises or equipment affected by the notice prior to the effective date and hour of the notice, except that—
 - (1) Bonded spirits on portions of bonded premises that are to be curtailed to general premises need not be removed if the spirits are taxpaid concurrent with the filing of Form 5110.34 to effect curtailment; and
 - (2) Taxpaid spirits on portions of general premises to be curtailed to bonded premises need not be removed if the spirits are to be immediately dumped and returned to bond under the provisions of [subpart U](#) of this part.
- (d) **Separation of premises.** The portion of the premises which is to be curtailed or extended as provided in this section shall be separated from the remaining portion of the distilled spirits plant in a manner which satisfies the appropriate TTB officer that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

§ 19.206 Curtailment and extension of plant premises for the manufacture of eligible flavors.

- (a) **General.** The premises of a distilled spirits plant may be alternately curtailed and extended, as provided in this section, to permit the use of the facilities for the manufacture of eligible flavors.
- (b) **Qualifying documents.** When a portion of the distilled spirits plant premises is first to be curtailed or extended as provided in this section, the proprietor shall file with the appropriate TTB officer—
- (1) An application for registration, Form 5110.41, to cover alternate extension and curtailment of the premises, and
 - (2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence.
- (c) **Proprietor's responsibility.** Once such qualifying documents have been approved by the appropriate TTB officer, the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits, denatured spirits, articles, and wines from the premises or equipment which are to be curtailed from bonded premises or are to be included by extension of bonded premises prior to the effective date and hour of the notice, except that—
- (1) Bonded spirits on portions of bonded premises that are to be curtailed need not be removed if the spirits are taxpaid concurrent with the filing of Form 5110.34 to effect curtailment; and
 - (2) Taxpaid spirits which are on portions of premises to be included by extension of bonded premises and which have not been used in the manufacture of a nonbeverage product need not be removed if the spirits are to be dumped immediately and returned to bond under the provisions of [subpart U](#) of this part.
- (d) **Separation of premises.** The portion of the premises which is to be curtailed or extended as

provided in this section shall be separated from the remaining portion of the distilled spirits plant in a manner which satisfies the appropriate TTB officer that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

[T.D. ATF–297, 55 FR 18063, Apr. 30, 1990]

§ 19.207 Alternate use of distilled spirits plant and volatile fruit-flavor concentrate premises.

If a proprietor of distilled spirits plant wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of §§18.39 and 18.41 through 18.43 of this title.

[T.D. ATF–455, 66 FR 29482, May 31, 2001]

Subpart H - Bonds and Consents of Surety

§ 19.231 Filing of operations or unit bonds.

Every person intending to establish a distilled spirits plant shall file an operations or unit bond as prescribed in this subpart, covering distilled spirits operations at such plant, with the appropriate TTB officer, at the time of filing the original application for registration of the plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regulations relating to activities covered by such bond, will pay all taxes imposed by 26 U.S.C. Chapter 51, and shall pay all penalties incurred or fines imposed for violation of any such provisions. The appropriate TTB officer may require, in connection with any operations or unit bond, a statement, executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in §19.237(a)(1) or has been convicted of any offense set forth in §19.237(a)(2). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. No person shall commence or continue distilled spirits operations at such plant unless he has a valid operations or unit bond (and consent of surety, if necessary), as required in respect of such operations by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

§ 19.232 Additional condition of operations bond.

In addition to the requirements of §19.231, the operations bond shall be conditioned on payment of the tax now or hereafter in force, except as provided by law, including taxes on all unexplained shortages of bottled distilled spirits.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.233 Corporate surety.

- (a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).
- (b) Treasury Department Circular No. 570 is published in the Federal Register yearly as of the first workday of July. As they occur, interim revisions of the circular are published in the Federal Register. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(Ch. 390, Pub. L. 80–280, 61 Stat. 648 as amended (31 U.S.C. 9304, 9306))

§ 19.234 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225.

(Ch. 390, Pub. L. 80–280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

§ 19.235 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.236 Filing and execution of powers of attorney.

- (a) **Filing.** Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The

appropriate TTB officer who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

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

(Ch. 390, Pub. L. 80–280, 61 Stat. 648 (31 U.S.C. 9304, 9306))

§ 19.237 Disapproval of bonds or consents of surety.

- (a) **Disapproval.** The appropriate TTB officer may disapprove any bond or consent of surety submitted in respect to the operations of a distiller, warehouseman, or processor, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—
 - (1) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or
 - (2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.
- (b) **Appeal.** Where a bond or consent of surety is disapproved by the appropriate TTB officer, the person giving the bond may appeal to the Administrator, who will hear such appeal. The decision of the Administrator shall be final.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§§ 19.238-19.240 [Reserved]

§ 19.241 Operations bond—distilled spirits plant and adjacent bonded wine cellar.

- (a) **General.** A wine cellar under the provisions of 27 CFR part 24 shall be treated as being adjacent to a distilled spirits plant if—
 - (1) Such distilled spirits plant is qualified under subpart G for the production of distilled spirits; and

(2) Such wine cellar and distilled spirits plant are operated by the same person (or in the case of a corporation, by such corporation and its controlled subsidiaries). For the purpose of this section a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation.

(b) **Bond in lieu of wine cellar bond.** In the case of an adjacent bonded wine cellar, a bond furnished under this subpart which covers operations at such bonded wine cellar shall be in lieu of any bond which would otherwise be required under [26 U.S.C. 5354](#) with respect to such wine cellar (other than supplemental bonds required under the second sentence of [26 U.S.C. 5354](#)) and the operations bond listed in [§19.245\(a\)\(1\)](#).

(c) **Liability.** Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given. The total amount of such operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 ([26 U.S.C. 5173](#)))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–299, 55 FR 24989, June 19, 1990]

§ 19.242 Area operations bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating more than one plant in a region may give an area operations bond covering the operation of any two or more of such plants, and any bonded wine cellars which are adjacent to such plants and which otherwise could be covered by an operations bond. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. Bonds given under this section shall be in lieu of the bonds which would be required under [§19.245\(a\)](#) and shall contain the terms and conditions of such bonds. If the area operations bond covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation. The total amount of the area operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 ([26 U.S.C. 5173](#)))

§ 19.243 Withdrawal bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating one

or more distilled spirits plants within a region and who intends to withdraw spirits from bond on determination, but before payment, of the tax shall, before making any such withdrawal, furnish a withdrawal bond to secure payment of the tax on all spirits so withdrawn. Such bond shall be in addition to the operations bond, and if the distilled spirits are withdrawn under the withdrawal bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. The bond, if it covers more than one plant, shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with [§19.245](#)) for each such plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (where the bond covers more than one plant), is in an amount less than the maximum prescribed in [§19.245](#), withdrawals from such plant shall not exceed the quantity permissible, as reflected by the penal sum in the bond for such plant. Such withdrawal bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 ([26 U.S.C. 5173](#)))

§ 19.244 Unit bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) who would otherwise be required to give bonds for both operations at one or more distilled spirits plants (and any adjacent bonded wine cellars) and withdrawals from one or more distilled spirits plants within a region may, in lieu of furnishing separate bonds for operations and withdrawals, furnish a unit bond containing the terms and conditions of the bonds in lieu of which it is given. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. The unit bond shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with [§19.245](#)) for operations at and withdrawals from each plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (if the bond covers more than one plant), is in an amount less than the maximum prescribed in [§19.245](#), operations at and/or withdrawals from such plant shall not exceed the quantity permissible as reflected by the penal sum in the bond for such plant. The unit bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 ([26 U.S.C. 5173](#)))

§ 19.245 Bonds and penal sums of bonds.

The bonds, and the penal sums thereof, required by this subpart, are as follows:

Penal Sum

Type of bond	Basis	Minimum	Maximum
(a) Operations bond: (1) One plant bond_ (i) Distiller	The amount of tax on..... spirits • produced during a period of 15 days.	\$5,000	\$100,000
(ii) Warehouseman: (A) General	The amount of tax on..... spirits and wines • deposited in, • stored on, and • in transit to bonded premises.	5,000	200,000
(B) Limited to storage of spirits in packages to a total of not over 50,000 proof gallons.	do.....	5,000	50,000
(iii) Distiller and warehouseman	The amount of tax on..... spirits • produced during a period of 15 days, and the amount of tax on spirits and wines • deposited, in • stored on, and • in transit to bonded premises.	10,000	200,000
(iv) Distiller and processor	The amount of tax on..... spirits • produced during a period of 15 days, and the amount of tax on	10,000	200,000

Type of bond	Basis	Minimum	Maximum
	spirits, denatured spirits, articles, and wines <ul style="list-style-type: none"> • deposited in, • stored on, and • in transit to bonded premises. 		
(v) Warehouseman and processor: (A) General	The amount of tax on..... spirits, denatured spirits, articles, and wines <ul style="list-style-type: none"> • deposited in, • stored on, and • in transit to bonded premises. 	10,000	250,000
(B) Limited to storage of spirits or denatured spirits in packages to a total of not over 50,000 proof gallons, and processing of spirits or denatured spirits so stored.	do.....	10,000	50,000
(VI) Distiller, warehouseman,..... and processor.	The amount of tax on..... spirits <ul style="list-style-type: none"> • produced during a period of 15 days, and the amount of tax on spirits, denatured spirits, articles, and wines <ul style="list-style-type: none"> • deposited in, • stored on, and • in transit to bonded premises. 	15,000	250,000
(2) Adjacent bonded wine cellars (i) Distiller and bonded wine cellar.....	The sum of <ul style="list-style-type: none"> • the amount of tax calculated in (a)(1)(i) and with respect to bonded wine cellar operations, <ul style="list-style-type: none"> • the amount of tax on wines and wine spirits <ul style="list-style-type: none"> • possessed and • in transit. 	6,000	150,000

Type of bond	Basis	Minimum	Maximum
(ii) Distiller, warehouseman and bonded wine cellar.	The sum of <ul style="list-style-type: none"> the amount of tax calculated in (a)(1)(iii) and with respect to bonded wine cellar operations, <ul style="list-style-type: none"> the amount of tax on wines and wine spirits <ul style="list-style-type: none"> possessed and in transit. 	11,000	250,000
(iii) Distiller, processor and bonded wine cellar.	The sum of <ul style="list-style-type: none"> the amount of tax calculated in (a)(1)(iv) and with respect to bonded wine cellar operations, <ul style="list-style-type: none"> the amount of tax on wines and wine spirits possessed and in transit. 	11,000	250,000
(iv) Distiller, warehouseman, processor and bonded wine cellar.	The sum of <ul style="list-style-type: none"> the amount of tax calculated in (a)(1)(vi) and with respect to bonded wine cellar operations, <ul style="list-style-type: none"> the amount of tax on wines and wine spirits possessed and in transit. 	16,000	300,000
(b) Area operations bond:	The penal sum shall be calculated in accordance with the following table:		

Total penal sums as determined under (a)	Requirements for penal sum of area operations bond
Not over \$300,000	100 percent.
Over \$300,000 but not over \$600,000	\$300,000 plus 70 percent of excess over \$300,000.
Over \$600,000 but not over \$1,000,000	\$510,000 plus 50 percent of excess over \$600,000.
Over \$1,000,000 but not over \$2,000,000	\$710,000 plus 35 percent of excess over \$1,000,000.
Over \$2,000,000	\$1,060,000 plus 25 percent of excess over \$2,000,000.

Type of bond	Basis	Minimum	Maximum
(c) Withdrawal bond: (1) One plant qualified for distilled spirits operations.	The amount of tax which, at any one time, is chargeable against such bond but has not been paid.	1,000	1,000,000
(2) Two or more plants in a region qualified for distilled spirits operations.	Sum of the penal sums for each plant calculated in (c)(1) of this section.	(1)	(2)
(d) Unit bond: (1) Both operations at <ul style="list-style-type: none"> • a distilled spirits plant • (and any adjacent bonded wine cellar) and withdrawals from <ul style="list-style-type: none"> • the bonded premises of the same distilled spirits plant. 	Total penal sums of <ul style="list-style-type: none"> • (a) and • (c)(1) of this section. 	6,000	1,300,000
(2) Both operations at <ul style="list-style-type: none"> • two or more distilled spirits plants • (and any adjacent bonded wine cellar) within the same region and withdrawals from <ul style="list-style-type: none"> • the bonded premises of the same distilled spirits plants. 	Total penal sums of <ul style="list-style-type: none"> • (b) and • (c)(2) of this section in lieu of which given. 	(3)	(4)

\1\ Sum of the minimum penal sums required for each plant covered by the bond.

\2\ Sum of the maximum penal sums required for each plant covered by the bond. (The maximum penal sum for one plant is \$1,000,000.)

\3\ Sum of the minimum penal sums for operations and withdrawal bonds required for each plant covered by the bond.

\4\ Sum of the maximum penal sums for area operations bonds and withdrawal bonds required for the plants covered by the unit bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

§ 19.246 Strengthening bonds.

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

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

New or Superseding Bonds

§ 19.247 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, under the provisions of §19.250, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business of operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1394, as amended (26 U.S.C. 5175, 5176, 5551); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.248 New or superseding bond.

- (a) **Operations bond.** When a new or superseding operations bond is not given as required in §19.247, the principal shall immediately discontinue the business or distilled spirits operations to which such bond relates.
- (b) **Withdrawal bond.** When a new or superseding withdrawal bond is not given as required by §19.247, the principal may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.
- (c) **Unit bond.** When a new or superseding unit bond is not given as required by §19.247, the

principal shall immediately discontinue the business or distilled spirits operations to which such bond relates and may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

Termination of Bonds

§ 19.249 Termination of bonds.

Operations, withdrawal, or unit bonds may be terminated as to liability for future withdrawals and/or to future production or deposits.

- (a) Pursuant to application of the surety as provided in §19.250.
- (b) On approval of a superseding bond.
- (c) On notification by the principal that he has discontinued withdrawals under the bond if such bond was filed solely as a withdrawal bond, or
- (d) On notification by the principal that he has discontinued business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.250 Application of surety for relief from bond.

A surety on any operations, withdrawal, or unit bond may at any time in writing notify the principal and the appropriate TTB officer in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 10 days after the date the notice is received by the appropriate TTB officer in the case of a withdrawal bond, and not less than 90 days after the date the notice is received in the case of an operations or unit bond. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in §19.251.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.251 Relief of surety from bond.

- (a) **General.** The surety on an operations, withdrawal, or unit bond who has filed application for relief from liability as provided in

§19.250 shall be relieved from liability under such bond as set forth in this section.

- (b) **Operations or unit bonds.** Where a new or superseding bond is filed, the surety shall be relieved of future liability with respect to production and deposits wholly subsequent to the effective date of the new or superseding bond. Notwithstanding such relief, the surety shall remain liable for the tax on all distilled spirits or wines produced, or for other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety shall, in addition to the continuing liabilities above specified, remain liable under the bond for all spirits or wines on hand or in transit to the bonded premises or bonded wine cellar, as the case may be, on the date named in the notice until all such spirits or wines have been lawfully disposed of, or a new bond has been filed by the principal covering the same.
- (c) **Withdrawal or unit bonds.** The surety shall be relieved from liability for withdrawals made wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5176,); sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.252 Release of pledged securities.

Securities of the United States pledged and deposited as provided in §19.234 shall be released only in accordance with the provisions of 31 CFR part 225. Such securities will not be released by the appropriate TTB officer until liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the appropriate TTB officer may extend the date of release for such additional length of time as he deems necessary.

(Ch. 290, Pub. L. 80–280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

Subpart I - Construction, Equipment and Security

§ 19.271 Construction of buildings

Buildings in which spirits, denatured spirits, articles, or wines are produced, stored, or processed shall be constructed with substantial material (e.g., masonry, concrete, wood, metal, etc.), and arranged, equipped, and protected to provide adequate security to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended) (26 U.S.C. 5178))

§ 19.272 Equipment.

The proprietor shall provide equipment suitable for the operations conducted on the distilled spirits plant. The equipment shall also meet the needs for revenue protection.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended) (26 U.S.C. 5178))

§ 19.273 Tanks.

(a) General.

- (1) Tanks used as receptacles for spirits, denatured spirits, or wines shall be located, constructed, and equipped to be suitable for the intended purpose and to allow ready examination.
- (2) An accurate means of measuring the contents of each tank shall be provided by the proprietor.
- (3) When a means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device to allow the approximate contents to be determined readily.
- (4) Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales and an additional suitable device shall be provided so that the volume of the contents can be quickly and accurately determined.
- (5) The proprietor shall install walkways, landings and stairways which will permit safe access to all parts of a tank.
- (6) Tanks in which gauges required by this part are to be made shall not be used until they are accurately calibrated and a statement of certification of accurate calibration is included in the notice of registration.
- (7) If tanks or their fixed gauging devices are moved in location or position subsequent to original calibration, the tanks shall not be used until recalibrated.
- (8) All tanks shall be equipped or situated so that they may be locked or otherwise secured.
- (9) Any tank vents, flame arresters, foam devices, or other safety devices shall be constructed to prevent extraction of spirits or wines.

(b) **Scale tanks.**

- (1) Beams or dials of scale tanks used for determining the tax imposed by 26 U.S.C. 5001 shall have minimum graduations not greater than the following:

Quantity to be weighed	Minimum graduation
<hr/>	
Not exceeding 2,000 pounds	1/2\ pound;
Between 2,000 and 6,000 pounds	1 pound;
Between 6,000 and 20,000 pounds	2 pounds;
Between 20,000 and 50,000 pounds	5 pounds;
Over 50,000 pounds.....	10 pounds.

- (2) For scales having a capacity greater than 2,000 pounds, the minimum quantity which may be entered onto the weighing tank scale for gauging for tax determination shall be the greater of
 - (i) 1,000 times the minimum graduation of the scale or
 - (ii) 5 percent of the total capacity of the weighing tank scale.
- (3) The weighing of lesser quantities for determination of tax may be authorized by the appropriate TTB officer where the beam of the scale is calibrated in 1/2 pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation.
- (4) Lots of spirits weighing 1,000 pounds or less shall be weighed on scales having 1/2 pound graduations.

(c) **Testing of scale tanks.**

- (1) Proprietors shall ensure the accuracy of scales used for weighing lots of spirits or denatured spirits through tests conducted at intervals of not more than 6 months, and whenever scales are adjusted or repaired.
- (2) Proprietors shall also test, at least once a month, the gallonage represented to be in a scale tank against the gallonage indicated by volumetric determination of the contents of the tank. However, if the scale is not used during a month the volumetric determination

need only be verified at the next time actually used.

- (3) The volumetric determination shall be made in accordance with 27 CFR part 30, and if the variation exceeds 0.5 percent of the quantities shown to be in the tank, the proprietor shall take appropriate steps to have the accuracy of the scale verified.
- (4) When an appropriate TTB officer determines that a tank scale may be inaccurate, the proprietor shall have the accuracy of the scale tested.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1358, as amended, 1391, as amended (26 U.S.C. 5006, 5204, 5505))

§ 19.274 Pipelines.

(a) **General.**

- (1) Pipelines for the conveyance of spirits, denatured spirits, articles, or wines shall be of permanent character and constructed, connected, arranged, and secured so as to afford adequate protection to the revenue and to permit ready examination. However, the appropriate TTB officer may approve pipelines which may not be readily examined if no jeopardy to the revenue is created.
- (2) Where a pipeline connection must be flexible, a hose may be used if connected and secured so as to protect the revenue.

- (b) **Identification.** The appropriate TTB officer may require permanent pipelines for conveyance of spirits or denatured spirits to be color coded to provide identification.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.275 Continuous distilling system.

The distilling system shall be continuous, and designed, constructed, and connected in such a manner as to prevent the unauthorized removal of distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.276 Package scales.

Proprietors shall ensure the accuracy of scales used for weighing packages of spirits through tests conducted at intervals of not more than 6 months or whenever scales are adjusted or repaired. However, if the scales are not used during such period, the scales need only be tested prior to use. Scales used to weigh packages designed to hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 19.277 Measuring devices and proofing instruments.

- (a) **General.** Proprietors shall provide for their own use accurate hydrometers, thermometers, and other necessary equipment to determine proof or volume.
- (b) **Instruments.** Hydrometers and thermometers used by proprietors to gauge spirits shall show subdivisions or graduations of proof and temperature which are at least as delimited as those prescribed in 27 CFR part 30. Proprietors shall make frequent tests of their hydrometers and thermometers, and, if they appear to be in error in excess of one subdivision, the instruments shall not be used until they are further tested and certified as accurate by the manufacturer or another qualified person.
- (c) **Meters.** The appropriate TTB officer may approve applications to measure spirits by meter for purposes other than tax determination. Applications shall include sufficient technical data, such as the make, model and accuracy tolerance, to enable the appropriate TTB officer to evaluate the suitability of the meter for its intended use. Corrections for temperature of the spirits being measured shall be made in conjunction with the volumetric measurement of spirits by meter. If a meter does not have a temperature compensating feature, temperature correction shall be ascertained and made from a representative sample taken from the spirits being measured.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 19.278 Identification of structures, areas, apparatus, and equipment.

- (a) Each room or enclosed area where spirits, denatured spirits, articles, wine, distilling or fermenting materials, or containers are held, and each building, within the plant, shall be appropriately marked with a distinguishing number or letter.
- (b) Each tank or receptacle for spirits, denatured spirits, or wine shall be marked to show a unique serial number and capacity.
- (c) Each still, fermenter, cooker, and yeast tank shall be numbered and marked to show its use.
- (d) All other major equipment used for processing or containing spirits, denatured spirits, or wine, or distilling or fermenting material, and all other

tanks, shall be identified as to use unless the intended purpose is readily apparent.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.279 Office facilities.

- (a) If the appropriate TTB officer assigns on a continuing basis an appropriate TTB officer to a plant to supervise operations, the proprietor shall provide an office at the distilled spirits plant for the exclusive use of appropriate TTB officers in performing their duties. The office shall be provided with adequate office furniture, lighting, ventilation, heating, and toilet and lavatory facilities. A secure cabinet, fitted for locking with a Government lock and of adequate size, shall also be provided by the proprietor. The office, facilities, and equipment provided by the proprietor shall be subject to the approval of the appropriate TTB officer. Where suitable facilities are otherwise available, the appropriate TTB officer may waive the requirements for a separate Government office.
- (b) If an appropriate TTB officer is not assigned to a plant on a continuing basis, the appropriate TTB officer may require the proprietor to provide for Government use a cabinet as specified in paragraph (a) of this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

§ 19.280 Signs.

The proprietor shall place and keep conspicuously on the outside of his place of business a sign showing the name of the proprietor and denoting the business, or businesses, in which engaged.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5180))

§ 19.281 Security.

- (a) **General.** The proprietor shall provide adequate security measures at the distilled spirits plant to protect the revenue.
- (b) **Buildings.** The buildings, rooms, and partitions shall be constructed of substantial materials. Doors, windows, or any other openings to the building shall be secured or fastened during times when distilled spirits plant operations are not being conducted.
- (c) **Outdoor tanks.** Outdoor tanks containing spirits, denatured spirits, or wine shall be individually locked or locked within an enclosure when they are not in use.

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

(e) **Approved locks.**

(1) Approved locks shall be used to secure:

- (i) Outdoor tanks containing spirits in the storage account or on an enclosure around such tanks;
- (ii) Indoor tanks containing spirits in the storage account or on the door from which access may be gained from the outside to the rooms or buildings in which such tanks are housed; and
- (iii) Any doors from which access may be gained from the outside to rooms or buildings containing spirits in portable bulk containers in the storage account.

(2) Approved locks shall meet the following minimum specifications:

- (i) Corresponding serial number on the lock and on the key, except for master key locking systems;
- (ii) Case hardened shackle at least one-fourth inch in diameter, with heel and toe locking;
- (iii) Body width of at least 2&inch;;
- (iv) Captured key feature (key may not be removed while shackle is unlocked);
- (v) Tumbler with at least 5 pins; and
- (vi) Lock or key contains no biting data.

Master key locking systems may be used at the option of the proprietor. Locks meeting the specifications in this section are approved locks for the purpose of [26 U.S.C. 5682](#). Proprietors who wish to use locks of unusual design, which do not meet the specifications in this part, shall submit an example or prototype of the lock to the appropriate TTB officer, with a request that the lock be approved for use. The appropriate TTB officer may require submission of the lock for testing prior to approval.

(f) **Additional security.** Where the appropriate TTB officer finds the construction, arrangement, equipment, or protection inadequate, additional security shall be provided (i.e., fences, flood lights, alarm systems, guard services) or changes in construction, arrangement, or equipment shall be made to be extent necessary to protect the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1410, as amended ([26 U.S.C. 5178, 5682](#)); sec. 806, Pub. L. 96–39, 93 Stat. 279 ([26 U.S.C. 5202](#)))

§ 19.282 Breaking Government locks.

Where affixed, Government locks shall not be removed without the authorization of the appropriate TTB officer, except where a person or property is in imminent danger from a disaster or other emergency. When a disaster or other emergency occurs, and it is impractical to first obtain authorization from an appropriate TTB officer, Government locks may be removed, by the proprietor, or by police or firefighters. When such action is taken, the proprietor shall see that security measures are taken to prevent illegal removal of spirits and, as soon as practical, shall notify the appropriate TTB officer of the action taken and submit within 5 days a written report, executed under the penalties of perjury, describing the emergency and the action.

(Sec. 806, Pub. L. 96–39, 93 Stat. 279 ([26 U.S.C. 5202](#)))

Formula

§ 19.324 Statement of production procedure or Form 5110.38.

- (a) A statement of production procedure is required as provided in [§19.170](#) for the production of spirits from original sources or substances.
- (b) As provided in [27 CFR 5.27](#), an approved formula on Form 5110.38 is required for the redistillation of spirits in the production account.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended, 1395, as amended ([26 U.S.C. 5201, 5222, 5223, 5555](#)))

Subpart X - Production of Vinegar by the Vaporizing Process

Scope of subpart

§ 19.821 Production of vinegar by the vaporizing process.

The regulations in this subpart relate to the production of vinegar by the vaporizing process. The regulations cover requirements governing the location, qualification, changes after qualification, construction, equipment, plant operations and records of operations at vinegar plants. Except where incorporated by reference, the provisions of [subpart A through W](#) and [subpart Y](#) of this part do not apply to vinegar plants using the vaporizing process. The following provisions of this part shall apply to this subpart: the meaning of terms, [§19.11](#); other businesses, [§19.68](#); right of entry and examination, [§19.81](#); furnishing facilities and assistance, [§19.86](#); restrictions as to location, [§19.131](#); registry of stills,

§19.169; and maintenance and preservation of records, §19.723.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1391, as amended (26 U.S.C. 5501–5505))

Qualification Documents

§ 19.822 Application.

Each person, before commencing the business of manufacturing vinegar by the vaporizing process shall make written application to the appropriate TTB officer. The application will include:

- (a) The applicant's name and principal business address (including the plant address if different from the principal business address);
- (b) Description of the extent of the premises;
- (c) Description of the type of operations to be conducted; and
- (d) Description of the stills including the name and residence of the owner, the kind of still, its capacity and the purpose for which it was set up.

The applicant shall receive and approved application from the appropriate TTB officer prior to commencing business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

§ 19.823 Changes after original qualification.

When there is a change in the information recorded in the original approved application, the proprietor shall make a written notice of the change to the appropriate

TTB officer. The notice will identify the change and the effective date of the change.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

§ 19.824 Notice of permanent discontinuance of business.

A proprietor who intends to permanently discontinue operations shall make written notice to the appropriate TTB officer. The proprietor shall include in the notice a statement of the status of the stills.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

Construction and Equipment

§ 19.825 Construction and equipment.

A proprietor of a vinegar plant shall construct and equip the vinegar plant so that—

- (a) The distilled spirits vapors that are separated by the vaporizing process from the mash produced by the manufacturer are condensed only by introducing them into the water or other liquid used in making the vinegar; and
- (b) The distilled spirits produced can be accurately accounted for and are secure from unlawful removal from the premises or from unauthorized use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

[T.D. ATF–198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF–297, 55 FR 18065, Apr. 30, 1990]