

Subpart O—Losses

DISTILLED SPIRITS

- 252.301 Loss of distilled spirits in transit.
- 252.302 Notice to exporter.
- 252.303 Filing of claims.
- 252.304 Action on claim.

SPECIALLY DENATURED SPIRITS

- 252.310 Loss of specially denatured spirits in transit.

WINE

- 252.315 Loss of wine in transit.
- 252.316 Notice to exporter.
- 252.317 Filing of claims.
- 252.318 Action on claim.

BEER AND BEER CONCENTRATE

- 252.320 Loss of beer and beer concentrate in transit.
- 252.321 Tax assessed on loss not accounted for.

Subpart P—Action on Claims

- 252.331 Claims supported by bond, Form 2738.
- 252.332 Claim against bond.
- 252.333 Where no bond is filed.
- 252.334 Credit allowance.
- 252.335 Disallowance of claim.

AUTHORITY: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

SOURCE: 25 FR 5734, June 23, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

Subpart A—Scope

§ 252.1 General.

The regulations in this part relate to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class 6, of distilled spirits (including specially denatured spirits), beer, and wine, and in the case of distilled spirits and wine only, transfer to a customs bonded warehouse as provided for in 26 U.S.C. 5066 and 5362, whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

[T.D. ATF-88, 46 FR 39814, Aug. 5, 1981]

§ 252.2 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(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]

§ 252.3 Related regulations.

Regulations relating to this part are listed below:

- 19 CFR Chapter I—Customs Regulations
- 27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act
- 27 CFR Part 4—Labeling and Advertising of Wine
- 27 CFR Part 19—Distilled Spirits Plants
- 27 CFR Part 21—Formulas for Denatured Alcohol and Rum
- 27 CFR Part 24—Wine
- 27 CFR Part 25—Beer
- 27 CFR Part 30—Gauging Manual
- 27 CFR Part 194—Liquor Dealers
- 31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety of Sureties on Penal Bonds

[T.D. ATF-224, 51 FR 7698, Mar. 5, 1986; as amended by T.D. ATF-299, 55 FR 25033, June 19, 1990]

Subpart B—Definitions

§ 252.11 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.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

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.

Bonded wine cellar. Premises established under part 240 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine.

Brewer. A proprietor of a brewery.

Brewery. Premises established under part 25 of this chapter for the production of beer.

Bulk container. any container having a capacity of more than 1 gallon.

CFR. The Code of Federal Regulations.

Container. Any receptacle, vessel, or any form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquors.

Customs bonded warehouse. A customs bonded warehouse, class 2, 3, or 8, established under the provisions of Customs Regulations (19 CFR chapter I).

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform the duties of an officer of the Customs Service.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.

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

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits.

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

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration:

I declare under the penalties of perjury that this _____ (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country or in a possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa and Guam, and to the Panama

Canal Zone shall also be treated as exportations.

Foreign-trade zone or zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

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

Liquor. Distilled spirits, wines, and/or beer.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as “ml”.

Manufacturing bonded warehouse. A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR, chapter I).

Package. Any cask, keg, barrel, drum, or similar portable container.

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 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.

Proprietor. The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, or manufacturing bonded warehouse, as the case may be, referred to in this part.

Region. A bureau of Alcohol, Tobacco and Firearms Region.

Regional Director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Secretary. The Secretary of the Treasury or his delegate.

Specially denatured spirits. Alcohol or rum, as defined in part 21 of this chapter, denatured pursuant to the formulas authorized in part 21 for specially denatured alcohol or rum.

Tank truck. A tank-equipped semi-trailer, trailer, or truck.

Tax. The distilled spirits tax, the beer tax, or the applicable wine tax, as the case may be, imposed by 26 U.S.C. chapter 51.

U.S.C. The United States Code.

Wine. All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

Zone operator. The person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

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

[T.D. ATF-48, 43 FR 13552, Mar. 31, 1978, as amended by T.D. ATF-51, 43 FR 24243, June 2, 1978; 44 FR 55854, Sept. 28, 1979; T.D. ATF-62, 44 FR 71720, Dec. 11, 1979; T.D. ATF-199, 50 FR 9201, Mar. 6, 1985; T.D. ATF-224, 51 FR 7698, Mar. 5, 1986]

Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

§ 252.20 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures—(1) Application.* An exporter, after receiving approval from the Director, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. An exporter wishing to use an alternate method or procedure may apply to the regional director (compliance). The exporter shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by Director.* The Director may approve the use of an alternate method or procedure if:

- (i) The applicant shows good cause for its use;
- (ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;
- (iii) It is not contrary to law; and
- (iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.