

## Bureau of Alcohol, Tobacco and Firearms, Treasury

## § 18.11

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AUTHORITY: 26 U.S.C. 5001, 5171-5173, 5178, 5179, 5203, 5351, 5354, 5356, 5511, 5552, 6065, 7805.

SOURCE: T.D. ATF-104, 47 FR 23921, June 2, 1982, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 18 appear by T.D. ATF-436, 66 FR 5471, 5472, Jan. 19, 2001.

### Subpart A—Scope

#### § 18.1 Scope.

The regulations in this part relate to the qualification and operation (including activities incident thereto) of plants for the manufacture of volatile fruit-flavor concentrate (essence). The regulations in this part apply to the several States of the United States and the District of Columbia.

#### § 18.2 Applicability of law.

Except as specified in 26 U.S.C. 5511, the provisions of 26 U.S.C. Chapter 51 are not applicable to the manufacture, by any process which includes evaporations from the mash or juice of any

fruit, of any volatile fruit-flavor concentrate if:

(a) The concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of the concentrate; and

(b) The concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of concentrate which does not exceed 24 percent alcohol by volume) the concentrate is transferred to a bonded wine cellar for use in the production of natural wine; and

(c) The manufacturer of concentrate complies with all requirements for the protection of the revenue with respect to the production, removal, sale, transportation, and use of concentrate, and of the mash or juice from which it is produced, as may be prescribed by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

#### § 18.3 Unlawful operations.

(a) A manufacturer of concentrate who violates any of the conditions stated in § 18.2 is subject to the taxes and penalties otherwise applicable under 26 U.S.C. Chapter 51 in respect to such operations.

(b) Any person who sells, transports, or uses any concentrate or the mash or juice from which it is produced in violation of law or regulations is subject to all the provisions of 26 U.S.C. Chapter 51 pertaining to distilled spirits and wines, including those requiring the payment of the tax thereon.

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

### Subpart B—Definitions

#### § 18.11 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.

*Appropriate ATF officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.13, Delegation Order—Delegation of the Director's Authorities in 27 CFR Parts 17 and 18.

*Bonded wine cellar.* Premises established under 27 CFR part 24 for the production, blending, cellar treatment, storage, bottling, or packaging of un taxpaid wine, and includes premises designated as “bonded winery.”

*Concentrate.* Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporations from any fruit mash or juice.

*Concentrate plant.* An establishment qualified under this part for the production of concentrate.

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

*Distilled spirits plant.* An establishment qualified under 27 CFR part 19, excluding alcohol fuel plants, for producing, warehousing, or processing distilled spirits (including denatured distilled spirits).

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, 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 application or report), 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.”

*Fold.* The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from the fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

*Fruit.* All products commonly known and classified as fruit, berries, or grapes.

*Fruit mash.* Any unfermented mixture of juice, pulp, skins, and seeds prepared from fruit, berries, or grapes.

*High-proof concentrate.* For the purposes of this part, “high-proof concentrate” means a concentrate (essence), as defined in this section, that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural constituents, i.e. without the addition of other substances.

*Juice.* The unfermented juice (concentrated or unconcentrated) of fruit, berries, or grapes, exclusive of pulp, skins, or seeds.

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

*Processing material.* The fruit mash or juice from which concentrate is produced.

*Proprietor.* A person qualified under this part to operate a concentrate plant.

*Registry number.* The number assigned to a concentrate plant or a bonded wine cellar for an approved application as required by Parts 18 and 24, respectively.

*U.S.C.* The United States Code.

[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-299, 55 FR 24989, June 19, 1990; T.D. ATF-436, 66 FR 5471, Jan. 19, 2001; T.D. ATF-455, 66 FR 29482, May 31, 2001]

### Subpart C—Administrative and Miscellaneous Provisions

#### § 18.12 Delegations of the Director.

The regulatory authorities of the Director contained in this part 18 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.13, Delegation Order—Delegation of the Director's Authorities in 27 CFR Parts 17 and 18. ATF delegation orders, such as ATF Order 1130.13, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, VA 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-436, 66 FR 5471, Jan. 19, 2001]