

**§ 19.318**

shall be destroyed or so treated as to preclude the extraction of potable spirits therefrom.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.318 Addition of caramel to rum or brandy and addition of oak chips to spirits.**

Caramel possessing no material sweetening properties may be added to rum or brandy on bonded premises prior to production gauge. Oak chips which have not been treated with any chemical may be added to packages prior to or after production gauge; however, notation to that effect shall be made on the record of production gauge as provided in § 19.319.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.319 Production gauge.**

(a) *General.* All spirits shall be gauged by determining quantity and proof within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, by approved meter, or, when approved by the Director, by other devices or methods which accurately determine the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after the addition. Spirits in each receiving tank shall be gauged before reduction in proof and both before and after each removal of spirits therefrom. The gauges shall be recorded by the proprietor in the records required by § 19.736.

(b) *Tax to be determined on production gauge.* Tax may be determined on the basis of the production gauge if:

(1) Spirits are weighed into bulk conveyances;

(2) Spirits are uniformly filled by weight into metal packages; or

(3) Spirits are filled by weight into packages for immediate withdrawal from bonded premises and the details of the gauge for each package are recorded on a package gauge record according to § 19.769.

Transaction records shall be marked "Withdrawal on Production Gauge."

(c) *Tax not to be determined on production gauge.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and the containers are filled to capacity, and the tax is not to be determined on the basis of the production gauge, the gauge may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining the average content of each container; or

(2) Measuring volumetrically, in a calibrated tank, converting the wine gallons determined into proof gallons, and determining therefrom the average content of each container; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by a device or method approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container. Rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer, or in the case of used cooperage, as determined by the proprietor.

(d) *Records of production gauge.* In computing the production gauge on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons shall be rounded to the nearest one-tenth and the average content so determined and the number of packages filled shall be used in computing the quantity produced. A separate gauge record, as prescribed in § 19.768, shall be prepared for each lot of packages filled (see § 19.593(b)) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. The gauge record shall indicate "Deposit in storage" or "Deposit in processing." If spirits are to be transferred in bond, or withdrawn from bond, as authorized by this part, the production gauge shall be made on the form or record required by this part for the transaction (accompanied by a package gauge record, if required). Each transaction form or record and each package gauge record, if any, shall show:

(1) The real name (or basic operating name as provided in § 19.280) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual proof gallons in the container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

**§ 19.320 Identification of spirits.**

At the time of production gauge, containers of spirits shall be identified by the proprietor in accordance with subpart R of this part. When the proprietor desires to enter spirits into bonded storage for subsequent packaging in wooden packages, he may identify such spirits with the specific designation to which they would be entitled if drawn into wooden packages, followed by the word "Designate," for example, "Bourbon Whisky Designate."

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

**§ 19.321 Entry.**

Pursuant to the production gauge, the proprietor shall make appropriate entry for (a) deposit of the spirits on bonded premises for storage or processing, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, or (e) transfer of the spirits for redistillation. Entry for deposit on the bonded premises of the same plant premises shall be made on a gauge record, prepared according to § 19.768. When spirits are entered for deposit on another plant premises or are entered for withdrawal or redistillation, the applicable provisions of subpart K or subpart P of this part shall be followed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5211))

**§ 19.322 Distillates containing extraneous substances.**

(a) *Use in production.* Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system prior to the production gauge for addition to fermenting or dis-

tilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of this paragraph shall be added promptly to the fermenting or distilling material.

(b) *Use at bonded wine cellar.* Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The gauge and removal of distillates to an adjacent bonded wine cellar shall be in accordance with applicable provisions of subpart P of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent bonded wine cellar shall be in accordance with the provisions of 27 CFR part 240.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5201, 5222, 5373))

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))

CHEMICAL BY-PRODUCTS

**§ 19.326 Spirits content of chemicals produced.**

All chemicals produced, including chemical by-products of the spirits production system, shall be substantially free of spirits before being removed from bonded premises. Except as authorized by the Director, the spirits content of such chemicals to be removed from bonded premises shall not exceed 10 percent by volume. Proprietors shall test chemicals for spirits