

§ 19.541

27 CFR Ch. I (4-1-04 Edition)

(ii) To applicants or prospective applicants for permits to use specially denatured spirits, for experimental purposes or for use in preparing samples of a finished product for submission on request by the Director.

(A) Proprietors shall maintain records to ensure that samples of specially denatured spirits dispensed to a nonpermittee do not exceed five gallons per calendar year. Records of samples of less than five gallons shall be maintained as provided in § 19.766.

(B) Samples in excess of five gallons may be furnished to nonpermittees only after the consignee provides the proprietor with a letterhead application approved by the regional director (compliance) under § 20.252 of this chapter. The proprietor shall retain the approved letterhead application on file as a part of the record of transaction.

(C) For each shipment of a sample in excess of five gallons under paragraph (c)(2)(ii)(B) of this section, the proprietor shall prepare a record of shipment and forward the original to the consignee, in accordance with § 19.779.

(3) Each sample of specially denatured spirits withdrawn under the provisions of paragraph (c)(2) of this section shall have a label affixed showing the following information:

(i) The word "Sample", and the words "Specially Denatured Alcohol", or "Specially Denatured Rum", whichever is applicable;

(ii) The name, address, and plant number of the proprietor; and

(iii) The formula number.

(d) *Articles.* Removal of articles from bonded premises shall be in accordance with the provisions of part 20 of this chapter.

(Approved by the Office of Management and Budget under control number 1512-0337)

(48 Stat. 999, as amended, 72 Stat. 1362, as amended, 1370, as amended (19 U.S.C. 81c; 26 U.S.C. 5214, 5271))

[T.D. ATF-199, 50 FR 9161, Mar. 1, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF-274, 53 FR 25156, July 5, 1988; T.D. TTB-8, 69 FR 3829, Jan. 27, 2004]

§ 19.541 Reconsignment.

(a) *Reconsignment.* When, prior to or on arrival at the consignee's premises, spirits or specially denatured spirits withdrawn free of tax under § 19.536 are

not accepted by the consignee or by a carrier, the spirits may be reconsigned (1) to the consignor, (2) to another proprietor for return to the bonded premises under the provisions of § 19.685, or (3) to another permittee holding a valid permit issued under part 20 or 22 of this chapter, as applicable.

(b) *Consent of surety.* In case of reconsignment to bonded premises, the provisions of § 19.685, relating to consent of surety in respect to return of spirits or specially denatured spirits withdrawn free of tax, are applicable.

(c) *Records of reconsignment.* In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if shipment is to another permittee or proprietor. The new record of shipment shall be marked "Reconsignment." File copies of the canceled and the new record of shipment will be annotated to cross reference each other.

(Records relating to tax-free alcohol approved by the Office of Management and Budget under control number 1512-0334; records relating to specially denatured spirits approved by the Office of Management and Budget under control number 1512-0337)

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

[T.D. ATF-199, 50 FR 9161, Mar. 6, 1985]

Subpart Q—Losses and Shortages

LOSSES

§ 19.561 Losses in general.

(a) *Allowable losses.* Except as provided in paragraph (b) of this section, tax shall not be collected or, if paid, the tax shall be refunded when spirits, denatured spirits or wines are lost or destroyed while in bond.

(b) *Exceptions.* Tax shall be collected in the case of:

(1) Theft, unless the regional director (compliance) finds that the theft occurred without connivance, collusion, fraud or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(2) Voluntary destruction carried out other than as provided in subpart U of this part;

(3) Unexplained shortage of bottled spirits.

(c) *Burden of proof.* When it appears that a loss occurred due to theft, the burden of proof shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the regional director (compliance) that the loss did not result from connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignee, consignee, bailee, or carrier, or the employees or agents of any of them.

(d) *Claims* for losses allowable under this section shall be filed in accordance with applicable provisions of subpart C of this part.

(e) *Limitations.* The abatement, remission, credit, or refund of taxes on spirits, denatured spirits, or wines lost by theft shall be allowed only to the extent that the claimant is not indemnified against or recompensed for the taxes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

§ 19.562 Determination of losses in bond.

(a) *General.* (1) Losses (whether by theft, unauthorized voluntary destruction, or otherwise) of spirits, denatured spirits, and wines shall be determined by the proprietor:

(i) Each time a tank or bulk conveyance is emptied;

(ii) On the basis of required physical inventories; and

(iii) Upon discovery of accidents or unusual variations in gauges.

(2) When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss shall be taxpaid or the container shall be segregated (as necessary) with the loss reported promptly to the area supervisor.

(3) In any instance in which spirits, denatured spirits or wines are lost or destroyed in bond, whether by theft, unauthorized voluntary destruction, or otherwise, the regional director (compliance) may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with § 19.41.

(b) *Missing packages.* Whenever any packages of spirits, denatured spirits, or wine recorded as deposited on bond-

ed premises cannot be located or otherwise accounted for, the proprietor shall promptly report such fact to the area supervisor, and the proprietor shall either pay the tax on the lost spirits, denatured spirits, or wines, or file a claim with respect thereto under the provisions of § 19.41.

(c) *Tampering, material deficiency, or loss of proof.* When it is found that spirits, denatured spirits, or wines in a container have been tampered with, or when a material deficiency in the recorded quantity of such products is found without evidence of loss by leakage or casualty, or when there is a loss of proof of such products not attributable to variations in gauging, the proprietor shall segregate the container (as necessary) and shall promptly report such fact to the area supervisor, unless the proprietor acknowledges liability for the tax on the loss and elects to pay the tax on the quantity lost.

(d) *Excessive in-transit losses.* Losses of spirits, denatured spirits, or wines received in bond in bulk conveyances which exceed one percent of the quantity of a product consigned shall be considered as excessive in-transit losses. However, in the case of transcontinental transfers in bond of wine, only losses in excess of two percent of the quantity of wine consigned shall be considered as excessive in-transit losses. The proprietor shall promptly report all such excessive in-transit losses to the area supervisor.

(e) *Storage account loss limitation.* When the quantity of spirits lost from all the storage tanks and bulk conveyances exceeds 1½ percent of the total quantity contained in the tanks and bulk conveyances during the calendar quarter, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 19.41 and is allowed by the regional director (compliance).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

§ 19.563 Loss of spirits from packages.

(a) *Original quantity.* Where there is evidence satisfactory to the regional director (compliance) that any loss of spirits (including denatured spirits)