

**§ 19.702**

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

(compliance), to a recognized commercial laboratory for testing or analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. The quantity of spirits so withdrawn shall not exceed the amount necessary for conduct of the proprietor's operations.

(b) *Customer samples.* A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing (other than consumer testing or other market analysis) only if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by the prospective purchaser; except that a sample not to exceed 1 liter may be furnished to a prospective customer for quality testing in anticipation of a purchase agreement if the customer is authorized to receive bulk spirits for industrial use.

(c) *Research or development.* Spirits may be withdrawn without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the testing, research or development. If the testing, research or development is to be conducted by other than the proprietor, the proprietor shall secure a written statement, executed by the consignee, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers.

(d) *Conditions.* (1) Records will be maintained in accordance with §19.766 of all spirits taken or withdrawn under the provisions of this section.

(2) Remnants or residues of spirits withdrawn but not used during testing, research or development shall be destroyed or returned to the bonded premises for storage with similar products or entry in the continuous distilling system.

(e) *Limitation.* The regional director (compliance) shall proceed to collect the tax on any spirits withdrawn under

this section which are found to have been withdrawn, used or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax as prescribed by §19.41.

(Sec. 201, Pub. L. 86-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5173))

**§ 19.702 Samples used on bonded premises.**

The proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises of the distilled spirits plant. The applicable purposes, conditions and limitations for samples taken pursuant to §19.701 shall also apply to samples taken as authorized by this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5008))

**§ 19.703 Taxpayment of samples.**

When tax is required to be paid on samples:

(a) If the proprietor is qualified to defer payment of tax, the tax shall be included in the proprietor's semi-monthly tax return on Form 5000.24.

(b) If the proprietor is not qualified to defer the payment of tax, the tax shall be paid on a prepayment tax return on Form 5000.24.

[T.D. ATF-219, 50 FR 51388, Dec. 17, 1985]

**§ 19.704 Labels.**

(a) On each container of spirits to be withdrawn under the provisions of §19.701, the proprietor shall affix a label showing the following information:

- (1) Purpose for which withdrawn;
- (2) Kind of spirits;
- (3) Size and the proof of the sample, if known;
- (4) If the spirits are removed to other than adjacent or contiguous premises of the proprietor, the name and address of the consignee;
- (5) The proprietor's name, and plant number; and
- (6) The date taken.

(b) The labeling required by paragraph (a) of this section is not necessary when sample containers bear an approved label pursuant to 27 CFR Part 5 and subpart S of this part and the sample is removed from bonded premises to the general premises of the same distilled spirits plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5206, 5214, 5373))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23952, June 7, 1985]

## Subpart W—Records and Reports

### GENERAL

#### § 19.721 Records.

(a) *In General.* (1) The records to be maintained by proprietors shall include:

(i) All individual transaction forms, records, and summaries specifically required by this part;

(ii) All supplemental, auxiliary, and source data utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and

(iii) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(2) The records required by this part may consist of the proprietor's commercial documents, rather than records prepared expressly to meet the requirements of this part, if such documents contain all the details required by this part to be recorded, are consistent with the general requirements of clarity and accuracy, and do not result in difficulty in their examination.

(b) *Accounts.* The records required by this part to be maintained by proprietors shall be arranged into three primary operational accounts:

- (1) Production,
- (2) Storage, and
- (3) Processing.

Records shall indicate receipts, movements between accounts, transfers in bond, or withdrawals of spirits, denatured spirits, articles, or wines.

(c) *Exceptions.* The term "records" as used in this subpart does not include copies of qualifying documents re-

quired under subpart G, or of bonds required under Subpart H of this part.

(d) *Special provisions.* See 27 CFR 70.22 for information with respect to ATF examination of financial records and books of account.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.722 Conversion between metric and U.S. units.

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows: (a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal; or (b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth. Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

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

#### § 19.723 Maintenance and preservation of records.

(a) *Place of maintenance.* Records required by this part shall be prepared and kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any ATF officer during business hours.

(b) *Reproduction of original records.* (1) Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the regional director (compliance) under § 19.725 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record.

(2) All provisions of law applicable to the original record shall be applicable to such reproductions.