

change the composition and character of the completely denatured alcohol, the product is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

(2) Products made with specially denatured spirits shall be made in accordance with (i) a general-use formula approved as provided in part 20 of this chapter, or (ii) an approved formula on Form 5150.19, or previously approved on ATF Form 1479-A or 27-B Supplemental.

(c) *Formulas required.* Formulas required by this section shall be submitted on Form 5150.19, except that formulas for eligible articles shall be submitted on Form 5154.1 (formerly 1678). Formulas shall be submitted in accordance with § 26.224. Any formula for an eligible article approved on Form 5150.19 prior to October 23, 1986, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF-199, 50 FR 9199, Mar. 6, 1985; T.D. ATF-263, 52 FR 46595, Dec. 9, 1987; T.D. ATF-379, 61 FR 31427, June 20, 1996. Re-designated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

**§ 26.222 Still wines containing carbon dioxide.**

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the appropriate ATF officer. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in triplicate to the appropriate ATF officer, who shall retain one copy, forward one copy to the Commissioner of Finance of the Virgin Islands, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by insular agents.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C 5041))

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979, as amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984]

**§ 26.223 Changes of formulas.**

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

**§ 26.224 Filing and disposition of formulas.**

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed ATF form. The applicant shall maintain copies of approved formulas available for examination by insular agents.

[T.D. ATF-451, 66 FR 21670, May 1, 2001]

**§ 26.225 Previously approved formulas.**

Any formula approved on Form 27-B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27-B Supplemental indicates that carbon dioxide

will be added to, or retained in, still wine, the notice requirement of §26.222 shall not apply.

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

### Subpart L—Closures for Distilled Spirits From the Virgin Islands

#### GENERAL

#### §26.230 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or determined under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23955, June 7, 1985]

#### §26.231 Affixing closures.

Closures or other devices shall be securely affixed to containers having capacity of 1 gallon (3.785 liters) or less so as to leave a portion remaining on the container when it is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23955, June 7, 1985. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### Subpart M—Procedure at Port of Entry From the Virgin Islands

#### §26.260 Certificate.

Persons (except tourists) bringing liquors or articles from the Virgin Islands into the United States shall file the certificate provided for in §26.205 with the district director of customs at the port of entry in the United States.

[T.D. ATF-62, 44 FR 71716, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

#### §26.261 Action by district director of customs.

The district director of customs will direct the proper customs gauger to determine the taxable quantity of liquors contained in the consignment by regauge or inspection and report the result thereof to the district director of customs. Upon receipt of such report the district director of customs will refer to the certificate required by §26.205 covering the product to determine the rate of internal revenue tax applicable thereto. When the rate of tax applicable to the product has been ascertained, the tax due on the consignment will be determined according to §§26.262 through 26.265.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §26.261, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### 26.262 Determination of tax on distilled spirits.

(a) If the certificate required by §26.205 covers distilled spirits, and the distilled spirits are not being transferred under subparts O or Oa of this part, the tax imposed by 26 U.S.C. 7652 which provides for a tax equal to the tax imposed by 26 U.S.C. 5001 will be collected on each proof gallon, and fractional part thereof, contained in the shipment.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2 ½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with §26.262a. The effective tax rate established will be applied to each withdrawal or other disposition of