

§ 28.23

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on such vessels shall be subject to approval by the district director of customs of a special written application by the withdrawer or the vessel's master on customs Form 5125 (in duplicate) and a statement by the withdrawer in his application or notice on the required TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be, that the liquors are to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the serial number of the TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be, and the date thereof, and shall be returned by the district director of customs to the withdrawer or vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the district director of customs within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the liquors until the district director of customs is satisfied that they have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such liquors remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the director of the port or place of arrival shall deem necessary. When such liquors have been accounted for to the satisfaction of the district director of customs, he shall execute his certificate of lading and use on both copies of the TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be, and forward the original of the form according to its instructions. In the event of a failure on the part of the withdrawer or the master of the vessel to comply with the conditions of this section or upon receipt of evidence that the liquors were not lawfully used as supplies on the

vessel, the district director of customs shall advise the appropriate TTB officer of all the facts in the case for determination of any liability incurred. In the case of liquors withdrawn without payment of tax, assessment of tax liability found to have been incurred shall be made against the principal on the bond. In the case of taxpaid or tax determined liquors, the appropriate TTB officer shall determine as to whether to make demand upon the principal and the surety on the bond or to disallow the claim as the case may be.

NOTE: As used in this section, the word "withdrawer" shall mean the person executing the application or notice, TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.22, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 28.23 Reciprocating foreign countries.

The appropriate TTB officer may approve applications relating to the withdrawal or lading of liquors for use on aircraft of those foreign countries which will allow, to aircraft registered in the United States and engaged in foreign trade, privileges substantially reciprocal to the privileges allowed herein to aircraft of a foreign country. Where application is made to withdraw or lade liquors for use on aircraft of other countries, which it is claimed reciprocate similar privileges to aircraft of the United States, the applicant must first establish the right of such withdrawal or lading. In appropriate cases, the applicant should request the Secretary of Commerce to find and advise the Secretary of the Treasury that such foreign country or countries

allow, or will allow, substantially reciprocal privileges to aircraft of the United States.

(46 Stat. 690, as amended; 19 U.S.C. 1309)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

MANUFACTURING BONDED WAREHOUSES

§ 28.25 General.

The proprietor of a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR chapter I, may withdraw distilled spirits or wine from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax, for use in the manufacture of products for export, or for shipment in bond to Puerto Rico, or for use by foreign governments, organizations, and individuals, as authorized by 26 U.S.C. 5066, 5214(a)(6) and 5362; and 19 U.S.C. 1311. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of § 28.63 or § 28.64.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-88, 46 FR 39814, Aug. 5, 1981, as amended by T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

CUSTOMS BONDED WAREHOUSES

§ 28.26 Entry of distilled spirits into customs bonded warehouses.

(a) *Distilled spirits withdrawn without payment of tax.* (1) Bottled distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 28.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(4).

(2) Distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer (for the purpose of storage pending exportation) to any

customs bonded warehouse from which distilled spirits may be exported. These withdrawals shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(9).

(b) *Bottled distilled spirits eligible for export with benefit of drawback.* Bottled distilled spirits eligible for export with benefit of drawback may, subject to this part, be transferred to customs bonded warehouses in which imported distilled spirits are permitted to be stored, and entered pending withdrawal as provided in § 28.28, as if such spirits were for exportation.

(c) *Time deemed exported.* For the purpose of this part, distilled spirits entered into a customs bonded warehouse as provided in this section shall be deemed exported at the time so entered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1381, 1382, (26 U.S.C. 5214); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066, 5370, 5371; 26 U.S.C. 7805))

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-206, 50 FR 23956, June 7, 1985; T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

§ 28.27 Entry of wine into customs bonded warehouses.

Upon filing of the application or notice prescribed by § 28.122(a), wine may be withdrawn from a bonded wine cellar for transfer to any customs bonded warehouse for entry pending withdrawal as provided in § 28.28. Such withdrawal from bonded wine cellars is governed by the provisions of subpart F of this part. Wine so transferred to customs bonded warehouses shall be entered, stored, and accounted for in such warehouses under the appropriate provisions of 19 CFR chapter I.

(Sec. 2, Pub. L. 96-601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF-88, 46 FR 39815, Aug. 5, 1981, as amended by T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

§ 28.28 Withdrawal of wine and distilled spirits from customs bonded warehouses.

Wine and bottled distilled spirits entered into customs bonded warehouses as provided in § 28.26 (a) or (b) and