

§ 28.30

§ 28.27 may, under the appropriate provisions of 19 CFR chapter I, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of foreign governments, organizations, and individuals who are entitled to withdraw imported wine and distilled spirits from a warehouse free of tax. Distilled spirits and wine entered into customs bonded warehouses under the provisions of §§ 28.26(a)(2) and 28.27 may be withdrawn for exportation, subject to the provisions of 19 CFR chapter I. Distilled spirits and wine transferred to customs bonded warehouses shall be entered into, stored and accounted for in, and withdrawn from, such warehouses under the appropriate provisions of 19 CFR chapter I. Wine and bottled distilled spirits, originally transferred to customs bonded warehouses for the purpose of withdrawal by foreign embassies, legations, etc., as authorized by law, may be withdrawn from such warehouses for domestic use, in which event they shall be treated as American goods exported and returned.

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

FOREIGN-TRADE ZONES

§ 28.30 Export status.

(a) Distilled spirits and wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States, and beer brewed or produced in the United States may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors deposited in a foreign-trade zone under this part solely for such purposes are considered to be exported. Export status is not acquired until application on Form 214 for admission of the liquors into the zone has been approved by the district director of customs under the appropriate provision of 19 CFR chapter I, and the required certification of deposit has been made on the TTB form prescribed in this part.

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(b) The provisions of subpart H of this part do not apply to specially denatured spirits transferred to a foreign-trade zone for use in the manufacture of articles pursuant to the provisions of 19 U.S.C. 81c(c). Transfer of domestic specially denatured spirits to a qualified user in a foreign-trade zone is made free of tax under the provisions of part 20 of this chapter. Such transfer does not place the domestic specially denatured spirits in an export status.

(48 Stat. 999, as amended (19 U.S.C. 81c))

[T.D. ATF-274, 53 FR 25157, July 5, 1988, as amended by T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

VOLUNTARY DESTRUCTION OF LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

§ 28.35 General.

Liquors may not, under the law, be transferred to a foreign-trade zone for the purpose of destruction. However, liquors transported to and deposited in a foreign-trade zone for exportation or for storage pending exportation may be destroyed under the supervision of the district director of customs, where it is shown to the satisfaction of the appropriate TTB officer that the liquors, after deposit in a zone, have become unmerchantable or unfit for export.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

[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]

§ 28.36 Application.

Liquors deposited in a foreign-trade zone from the United States which have become unmerchantable or unfit for export may be destroyed. The exporter shall prepare a letter application, in duplicate, and submit it to the appropriate TTB officer. The application shall identify the name and address of the exporter and contain the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the zone in which the liquor is stored;

(b) The name and address of the producer bottler or packager of the liquor,

and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors were withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date, form, and 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, in the case of liquors on which drawback of internal revenue tax has been allowed, the TTB assigned claim number;

(d) Whether the liquor has become unmerchantable or unfit for export after deposit in the zone, together with all the known facts relating thereto; and

(e) Whether the unmerchantable or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application shall show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor, and to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction.

Such application shall be signed by the exporter or his authorized agent and be executed under the penalties of perjury. The appropriate TTB officer may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the district director of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR chapter I). On receipt of the application the district director of customs shall determine the completeness thereof and shall report any facts relating to the condition of the liquor of which he may have knowledge. The original application shall be forwarded to the appropriate TTB offi-

cer and the district director of customs shall retain the copy for his files.

[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 § 28.36, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 28.37 Action by appropriate TTB officer.

The appropriate TTB officer shall carefully examine the application to see that all the required information has been furnished and shall cause an investigation to be made or require any additional evidence, including samples, to be submitted if necessary. If the appropriate TTB officer finds that the liquors were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that the liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the district director of customs. On approval or disapproval of the application, the appropriate TTB officer shall advise the district director of customs of his action.

[T.D. ATF-51,43 FR 24244, June 2, 1978, as amended by T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

§ 28.38 Action by district director of customs.

On receipt of the appropriate TTB officer's authorization for destruction of the liquor, or his disapproval of the application for destruction, the district director of customs shall act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR chapter I). Where the appropriate TTB officer has authorized the destruction of the liquor, such destruction shall be accomplished under customs supervision.

[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]