

## § 28.37

(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 officer 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 ap-

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propriate 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]

## EVIDENCE OF EXPORTATION AND USE

### § 28.40 Evidence of exportation: distilled spirits and wine.

The exportation of any shipment of distilled spirits or wine may be evidenced by:

- (a) A copy of the export bill of lading (§ 28.250); or
- (b) A copy of the railway express receipt (§ 28.251); or
- (c) A copy of the air express receipt (§ 28.252); or
- (d) A copy of the through bill of lading where exportation is to a contiguous foreign country (§ 28.250); or

(e) A certificate by the export carrier, as provided for in § 28.253.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-224, 51 FR 7698, Mar. 5, 1986; T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

**§ 28.41 Evidence of lading for use on vessels or aircraft: distilled spirits and wine.**

The lading of distilled spirits or wine for use on vessels or aircraft may be evidenced by submission of a receipt procured under the provisions of § 28.268.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 201, Pub. L. 85-859; 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

[T.D. ATF-224, 51 FR 7698, Mar. 5, 1986, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

**§ 28.42 Evidence of deposit.**

The deposit of distilled spirits in a customs bonded warehouse or distilled spirits and wines in a foreign-trade zone with benefit of drawback may be evidenced by a copy of the transportation bill of lading obtained under the provisions of § 28.250.

(48 Stat. 999, as amended, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5066)

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

**§ 28.43 Evidence of exportation and lading for use on vessels and aircraft: beer.**

(a) *Exportation.* The exportation of beer to a foreign country or possession will be fully evidenced by any of the following documents:

(1) Customs certification of lading and clearance on Form 1582-B (5130.6) or Form 1689 (5130.12) under subpart M of this part; or

(2) For shipment to the armed forces, certification by a military officer on Form 1582-B (5130.6) or Form 1689 (5130.12) under § 28.275; or

(3) A bill of lading (§ 28.250), a railway express receipt (§ 28.251), or an air express or air freight bill of lading (§ 28.252), when such bills of lading or

receipt show exportation to a foreign country or possession; or

(4) A certificate issued by an export carrier under § 28.253 attesting to exportation to a foreign country or possession; or

(5) A landing certificate issued by an official of the country or possession where the beer has actually landed; or

(6) Any other evidence of exportation approved by the appropriate TTB officer.

(b) *Use as supplies on vessels and aircraft.* The lading of beer for use on vessels or aircraft will be fully evidenced by:

(1) For fishing vessels only, customs certification of lading and use on Form 1582-B (5130.6) or Form 1689 (5130.12) under § 28.23; or

(2) Customs certification of lading on Form 1582-B (5130.6) or Form 1689 (5130.12) under §§ 28.264 or 28.282; or

(3) Any other evidence of exportation approved by the appropriate TTB officer.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 201, Pub. L. 85-859, 72 Stat. 1334, as amended, 1335, as amended (26 U.S.C. 5053, 5055))

[T.D. ATF-224, 51 FR 7698, Mar. 5, 1986, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

RETENTION OF RECORDS

**§ 28.45 Retention of records.**

File copies of forms required by this part to be retained by any proprietor or claimant, and all records, documents, or copies of records and documents supporting such forms, shall be preserved by such proprietor or claimant for a period of not less than two years, and during such period shall be