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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 18, 19, 24, 25, 26, 27, 28, and 30

[Docket No. TTB–2016–0013; Notice No. 167; Re: T.D. TTB–146]

RIN: 1513–AC30

Changes to Certain Alcohol-Related Regulations Governing Bond Requirements and Tax Return Filing Periods

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; cross-reference to temporary rule.

SUMMARY: In a temporary rule published elsewhere in this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending its regulations relating to excise taxes imposed on distilled spirits, wines, and beer to implement certain changes made to the Internal Revenue Code of 1986 (IRC) by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). The temporary rule implements section 332 of the PATH Act, which amends the IRC to remove bond requirements and change tax return due dates for certain eligible excise taxpayers. In this document, TTB proposes to adopt the regulations in the temporary rule as a permanent regulatory change. The text of the regulations in the temporary rule serves as the text of the proposed regulations. This document also proposes to amend the regulations governing the submission of reports by certain eligible excise taxpayers. In this document, TTB is soliciting

comments on the amendments adopted in the temporary rule and the amendments proposed in this notice of proposed rulemaking.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this proposal to one of the following addresses. Comments submitted by other methods, including e-mail, will not be accepted.

- Internet: <https://www.regulations.gov> (via the online comment form for this document as posted within Docket No. TTB–2016–0013 at “Regulations.gov,” the Federal e-rulemaking portal);

- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or

- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the **Public Participation** section of this document for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, the temporary rule, selected supporting materials, and any comments TTB receives about this proposal at <https://www.regulations.gov> within Docket No. TTB–2016–0013. A direct link to this docket is posted on the TTB Web site at https://www.ttb.gov/regulations_laws/all_rulemaking.shtml under Notice No. 167.

You also may view copies of this document, the temporary rule, all related supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: For questions concerning this document, contact Ben Birkhill, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–453–2265).

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers provisions in chapter 51 of the Internal Revenue Code of 1986, as amended (IRC), pertaining to the taxation of distilled spirits, wines, and beer (see title 26 of the United States Code (U.S.C.), chapter 51 (26 U.S.C. chapter 51)). TTB also regulates distilled spirits, wines, and malt beverages pursuant to the Federal Alcohol Administration Act (FAA Act). TTB administers the provisions of the IRC and FAA Act, and their implementing regulations, pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Department Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in administration and enforcement of these laws.

Sections 5001, 5041, and 5051 of the IRC (26 U.S.C. 5001, 5041, and 5051) impose tax on distilled spirits, wines, and beer produced in or imported into the United States. Generally, taxes are determined (i.e., become due for payment) when they are removed from qualified facilities in the United States or imported as provided in sections 5006, 5043, and 5054 of the IRC (26 U.S.C. 5006, 5043, and 5054). Section 5061 of the IRC (26 U.S.C. 5061) governs the collection of tax due on distilled spirits, wines, and beer, including the time periods and due dates for paying such taxes by return. Under some circumstances, the IRC authorizes the removal of distilled spirits, wines, and beer from facilities in the United States without paying the excise taxes imposed on such products. For example, the IRC does not require payment of tax for certain transfers between qualified facilities in the United States as provided in sections 5212, 5362(b), and 5414 of the IRC (26 U.S.C. 5212, 5362(b), and 5414).

The PATH Act and the Temporary Rule

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Public Law 114–113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 332 of the PATH Act amends the IRC to change tax return due dates and remove bond requirements for certain eligible taxpayers who pay excise taxes on distilled spirits, wines, and beer.

With respect to tax return due dates, section 332 amends section 5061(d) of the IRC to authorize a new annual return period for deferred payment of excise tax, in addition to the preexisting quarterly and semimonthly deferred payment

periods authorized under that section. Deferred payment of tax refers to payment using one of these three return periods prescribed under the IRC rather than payment immediately each time the tax becomes due. As described above, taxes on distilled spirits, wines, and beer generally become due when the products are removed from qualified facilities in the United States or imported into the United States. To be eligible to use the annual or quarterly return periods, the taxpayer must reasonably expect to be liable for not more than \$1,000 in excise taxes, in the case of annual returns, or \$50,000 in excise taxes, in the case of quarterly returns, for the calendar year and must have been liable for not more than these respective quantities in the preceding calendar year. Since these \$1,000 and \$50,000 ceilings are based on liability for payment of taxes by return under section 5061 of the IRC, they do not include liability for taxes imposed but not necessarily due, such as liability associated with taxes imposed on distilled spirits, wines, and beer produced in or imported into the United States that have not been removed from qualified facilities on payment or determination of tax.

Section 332 of the PATH Act also amends several provisions of the IRC to remove bond requirements for certain taxpayers who are eligible to pay taxes on distilled spirits, wines, and beer using quarterly or annual return periods and who pay taxes on a deferred basis. Under section 332, these taxpayers are exempt from bond requirements with respect to distilled spirits and wine only to the extent those products are for nonindustrial use. The amended provisions relating to this bond exemption are sections 5173, 5351, 5401, and 5551 of the IRC.

In a temporary rule published elsewhere in this issue of the **Federal Register**, TTB is amending the regulations in chapter I of title 27 of the Code of Federal Regulations (27 CFR) to implement section 332 of the PATH Act and to make several technical amendments to update certain bond-related provisions. The temporary rule amends regulations in 27 CFR parts 18, 19, 24, 25, 26, 27, 28, and 30. These amendments include incorporating the new annual return period into the regulations, clarifying the circumstances under which taxpayers are eligible for the bond exemption, and adding new provisions governing qualification and loss of eligibility for the bond exemption. The preamble of the temporary rule explains the proposed regulations in more detail, and this notice solicits comments on the amendments adopted in the temporary rule. The text of the regulations in the temporary rule serves as the text of the proposed regulations for purposes of this document.

Proposed Amendments to Reporting Requirements

In this document, TTB is also proposing to amend the regulations governing reporting requirements for distilled spirits plants (DSPs) and brewers in order to reduce unnecessary regulatory burden on some industry members who pay taxes using annual or quarterly return periods. TTB is also soliciting comments on whether to amend current reporting requirements for bonded wine cellars (including bonded wineries). These reporting provisions help protect the revenue by requiring regulated parties to submit information to TTB relating to their operations that are subject to regulation under the IRC. This section

discusses current reporting requirements for these industry members and the proposed regulatory amendments.

Current Reporting Requirements

The regulations in 27 CFR parts 19, 24, and 25 govern the operations of DSPs, bonded wine cellars, and breweries in the United States. Under 27 CFR 19.632, DSP proprietors must submit to TTB certain monthly reports of operations. These reports are TTB Form 5110.40 (Monthly Report of Production Operations), TTB Form 5110.11 (Monthly Report of Storage Operations), TTB Form 5110.28 (Monthly Report of Processing Operations), and TTB Form 5110.43 (Monthly Report of Processing (Denaturing) Operations). Under the current regulations, DSPs may not file required reports less frequently than monthly.

Under 27 CFR 24.300(g), bonded wine cellars must generally file reports on a monthly basis using TTB Form 5120.17 (Report of Wine Premises Operations), but they may file reports quarterly or annually if they meet the criteria to do so. To be eligible to file reports on a quarterly basis, the proprietor must be filing quarterly tax returns, and the proprietor must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 60,000 gallons for any one quarter during the calendar year when adding up certain wine on the proprietor's premises. The wine that must be taken into account for this purpose is wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to

bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report which increases the amount of wine to be accounted for. The wines that must be taken into account for this purpose are wines on which taxes are imposed but not necessarily due, since the wines are not reported as withdrawn on payment or determination of tax. To be eligible to file reports on an annual basis, the proprietor must be filing annual tax returns, and the proprietor must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 20,000 gallons for any one month during the calendar year when adding up certain wine on the proprietor's premises. The wine that must be taken into account for this purpose is the same as the wine that must be taken into account for purposes of determining eligibility for quarterly reporting.

Under 27 CFR 25.297, each brewer must file a monthly report using TTB Form 5130.9 (Brewer's Report of Operations), unless the brewer is required to file reports on a quarterly basis. A brewer must file quarterly reports using TTB Form 5130.26 (Quarterly Brewer's Report of Operations) or TTB Form 5130.9 if the brewer was liable for not more than \$50,000 in taxes with respect to beer in the preceding calendar year and reasonably expects to be liable for not more than \$50,000 in such taxes during the current calendar year. As referenced above, a brewer who meets these \$50,000 ceilings is eligible to pay taxes quarterly under section 5061 of the IRC. Since these \$50,000 ceilings are based on liability for payment of taxes by return under section 5061 of the IRC, they do not include liability for taxes imposed but not necessarily due.

Proposed Amendments and Solicitation of Comments

TTB is proposing to amend the reporting regulations applicable to DSPs and brewers, and TTB is soliciting comments on whether to amend the reporting regulations for bonded wine cellars. TTB proposes to amend the regulations to authorize new quarterly and annual reporting periods for certain DSPs, to authorize a new annual reporting period for certain brewers, and to change the existing quarterly reporting requirements for brewers. As discussed further below, the proposed criteria for quarterly and annual reporting by DSPs and brewers are modeled in part on the current criteria for quarterly and annual reporting by bonded wine cellars, with some modifications. TTB is soliciting comment on whether these modified criteria should be adopted for DSPs and brewers. TTB is also requesting comment on whether it should instead adopt criteria for quarterly and annual reporting by DSPs and brewers that resemble the requirements used for such reporting by bonded wine cellars (i.e., by taking into account the sum of certain products listed on specific lines of proprietors' reports). In addition, TTB is soliciting comment on whether it should amend the current requirements for quarterly and annual reporting by bonded wine cellars so that the requirements are consistent with the proposed modified criteria for quarterly and annual reporting by DSPs and brewers.

Under the proposed amendments to §§ 19.632 and 25.297, DSPs and brewers must report monthly unless they are required to report quarterly or annually. Under the proposed amendments, DSPs and brewers must report quarterly for a calendar year if they file quarterly tax returns for that calendar year

and if their liability for taxes on alcohol for which taxes have not been paid does not exceed \$50,000 at any time during that calendar year. For purposes of the latter criterion, liability for taxes that have not been paid includes liability for taxes determined but not yet paid and liability for taxes imposed but not necessarily due for payment. Under the proposed amendments, DSPs and brewers must report annually if they file annual tax returns and if their liability for taxes on alcohol for which taxes have not been paid does not exceed \$50,000 at any time during the calendar year. The purpose of these eligibility criteria is to reduce reporting burdens on taxpayers whose tax payments do not exceed the ceilings described above for paying taxes quarterly or annually and whose liability for taxes that have not been paid does not exceed \$50,000. As discussed below, both types of liability are relevant for determining required reporting frequency for revenue protection purposes.

The proposed criteria for quarterly and annual reporting in amended §§ 19.632 and 25.297 are modeled in part on the current criteria for quarterly and annual reporting by bonded wine cellars, which are based on both the frequency with which the proprietor pays taxes by return and the proprietor's liability for alcohol on which taxes have not been paid. Both factors are relevant for determining required reporting frequency because they relate to the proprietor's overall tax liability under the IRC. Generally, more frequent reporting is necessary for a proprietor who has greater tax liability because TTB needs more detailed information regarding the proprietor's operations for revenue protection purposes. More frequent reporting is necessary for proprietors who use more

frequent return periods for paying tax because such proprietors generally have greater liability for taxes due for payment. In addition, since a proprietor's liability for taxes imposed but not necessarily due also raises revenue risks, this type of tax liability must also be taken into account for determining appropriate reporting frequency.

With respect to return periods, TTB believes it is appropriate to require that DSPs and brewers pay taxes on an annual or quarterly basis to be eligible to report on an annual or quarterly basis, respectively. This requirement under proposed §§ 19.632 and 25.297 is consistent with current reporting requirements for bonded wine cellars under § 24.300(g). With respect to liability for taxes imposed but not necessarily due, TTB has determined that the proposed \$50,000 maximum discussed above for DSPs and brewers reporting quarterly and annually is necessary for revenue protection purposes. The \$50,000 limit ensures that DSPs and brewers reporting quarterly or annually who pay excise taxes using quarterly or annual return periods do not engage in operations that involve significant tax liability for which the IRC does not require payment of tax, such as certain transfers of alcohol between qualified facilities in the United States (see sections 5212, 5362(b), and 5414 of the IRC). Since DSPs and brewers who report quarterly or annually meet the tax payment ceilings for the use of quarterly or annual return periods, TTB has determined that this \$50,000 limit on taxes imposed but not necessarily due is appropriate for both quarterly and annual reporters. Quarterly and annual reporters will be subject to different tax payment ceilings based on the tax return period they use, and the \$50,000

limit is simply intended to ensure that neither category of reporters engages in operations that involve significant tax liability for which the IRC does not require payment of tax.

The \$50,000 maximum for DSPs and brewers under proposed §§ 19.632 and 25.297 is different from current quarterly and annual reporting requirements for bonded wine cellars. Under § 24.300(g), bonded wine cellars must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 60,000 gallons for any one quarter (in the case of quarterly reporting) or 20,000 gallons for any one month (in the case of annual reporting) when adding up certain wine on the proprietor's premises as described above. Because section 5041 of the IRC imposes several different tax rates on wine, the tax liability associated with these quantities may or may not exceed \$50,000, depending on the circumstances. TTB is soliciting comment on whether there are wine-specific reasons for retaining the 60,000-gallon and 20,000-gallon limits in the regulations and whether it would instead be appropriate for consistency purposes to amend § 24.300(g) to incorporate the same \$50,000 maximum that TTB is proposing for DSPs and brewers under §§ 19.632 and 25.297.

Finally, TTB is also requesting comment on whether it should amend § 24.300(g) to require (rather than simply allow) the use of quarterly and annual reporting periods for bonded wine cellars who meet the criteria to use them. Under the current regulations, such proprietors may choose to submit reports monthly even though they are eligible to report less frequently. TTB believes that requiring less frequent reporting for eligible proprietors would reduce reporting

burdens on proprietors and would reduce report processing burdens on TTB. TTB is therefore soliciting comment on whether there are wine-specific reasons for continuing to allow the voluntary use of quarterly or annual reporting periods for bonded wine cellars that are eligible to use them.

Public Participation

Comments Sought

TTB requests comments from interested members of the public on the regulations adopted in the temporary rule and the additional regulatory amendments proposed in this document. In addition, TTB is requesting comments whether it should amend the current requirements for quarterly and annual reporting by bonded wine cellars so that the requirements are consistent with the criteria proposed in this document for quarterly and annual reporting by DSPs and brewers.

Submitting Comments

You may submit comments on this proposal by one of the following three methods:

- Federal e-Rulemaking Portal: You may electronically submit comments via the online comment form posted with this proposed rule within Docket No. TTB–2016–0013 on “Regulations.gov,” the Federal e-rulemaking portal. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/spirits/spirits-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, visit the site and click on the “Help” tab.

- Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005.
- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 167 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments and considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name as well as your name and position title. In your comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this proposed rule, the temporary rule, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0013 on the Federal e-rulemaking portal. A direct link to that docket is available on the TTB Web site at

https://www.ttb.gov/regulations_laws/all_rulemaking.shtml under Notice No. 167.

You may also reach the relevant docket through the Regulations.gov search page at <https://www.regulations.gov>. For information on how to use Regulations.gov, click on the site's "Help" tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You may view copies of this proposed rule, the temporary rule, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies for 20 cents per 8.5- x 11-inch page.

Contact TTB's information specialist at the above address or by telephone at

202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would reduce reporting requirements for certain proprietors described in this document. The proposed rule, if adopted, will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the proposed regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small businesses.

Executive Order 12866

Certain TTB regulations issued under the IRC, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Paperwork Reduction Act

The six collections of information associated with the proposed regulatory requirements discussed in this notice of proposed rulemaking (including the regulatory requirements relating to wine reporting on which TTB is seeking comment) have been previously reviewed and approved by the Office of

Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and assigned control numbers 1513–0007, 1513–0039, 1513–0041, 1513–0047, 1513–0049, and 1513–0053. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The proposed regulatory text in 27 CFR 19.632 contains alterations to the information collections currently approved under OMB control numbers 1513–0039, 1513–0041, 1513–0047, and 1513–0049. These control numbers cover, respectively, TTB Forms 5110.11, 5110.28, 5110.40, and 5110.43. If adopted, these revisions would provide for less frequent reporting by certain DSPs. Under the current regulations, DSPs must submit required reports on a monthly basis. Under the proposed regulatory amendments, a DSP would report quarterly if they file quarterly tax returns and would report annually if they file annual tax returns as long as, in either case, the DSP's liability for taxes on distilled spirits for which taxes have not been paid does not exceed \$50,000 at any time during the calendar year. Taking into account the proposed regulatory amendments, TTB estimates the burden associated with these information collections as follows:

1513–0039

- Estimated number of respondents: 684 reporting monthly; 651 reporting quarterly; 424 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.

- Estimated average annual total burden hours: 11,236.

1513-0041

- Estimated number of respondents: 634 reporting monthly; 603 reporting quarterly; 392 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.
- Estimated average annual total burden hours: 20,824.

1513-0047

- Estimated number of respondents: 571 reporting monthly; 544 reporting quarterly; 354 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.
- Estimated average annual total burden hours: 18,764.

1513-0049

- Estimated number of respondents: 184 reporting monthly; 175 reporting quarterly; 114 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.
- Estimated average annual total burden hours: 3,022.

The proposed regulatory text in 27 CFR 25.297 contains alterations to the information collection currently approved under OMB control number 1513-0007. This control number covers TTB Forms 5130.9 and 5130.26. If adopted, these

revisions would provide for less frequent reporting by certain brewers who file annual tax returns and would continue to authorize quarterly reporting by certain brewers who file quarterly tax returns. In the case of a brewer who reports quarterly or annually, the brewer's liability for taxes on beer for which taxes have not been paid must not exceed \$50,000 at any time during the calendar year. Taking into account the proposed regulatory amendments, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 1,344 reporting monthly; 2,998 reporting quarterly; 1,956 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.
- Estimated average annual total burden hours: 22,557.

Finally, TTB is requesting comments on whether to amend § 24.300(g) so that the reporting requirements for bonded wine cellars on TTB Form 5120.17 are consistent with the proposed reporting requirements for DSPs and brewers. The reporting requirements in § 24.300(g) are covered under OMB control number 1513-0053. Similar to the proposed amendments for DSPs and brewers, the current reporting provisions for bonded wine cellars require that the proprietor file tax returns quarterly or annually to be eligible for quarterly or annual reporting, respectively. In addition, the proprietor must not expect the sum of the bulk and bottled wine to be accounted for in all tax classes to exceed 60,000 gallons for any one quarter (in the case of quarterly reporting) or 20,000 gallons for any one month (in the case of annual reporting) when adding up

certain wine on the proprietor's premises. TTB is soliciting comment on whether to adopt the proposed \$50,000 limit described above for DSPs and brewers in lieu of the 20,000-gallon and 60,000-gallon limits in the current regulations. TTB does not estimate that this change, if adopted, would result in changes in reporting burden for proprietors. We are, however, reporting an increase in the number of respondents to this collection to reflect the current number of proprietors who file the form. TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 2,316 reporting monthly; 4,733 reporting quarterly; 4,467 reporting annually.
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting; 1 for annual reporting.
- Estimated average annual total burden hours: 56,310.

Revisions of these six currently approved collections have been submitted to OMB for review. Comments on the revisions should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or by email to OIRA_submissions@omb.eop.gov. A copy should also be sent to TTB by any of the methods previously described. Comments on the information collections should be submitted no later than [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments are specifically requested concerning:

- Whether the proposed revisions of the collections of information are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the proposed revisions of the collections of information;
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed revision of the collection of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Drafting Information

Ben Birkhill of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

List of Subjects

27 CFR Part 18

Alcohol and alcoholic beverages, Fruits, Reporting and recordkeeping requirements, Spices and flavorings.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Caribbean Basin initiative, Chemicals, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 25

Beer, Claims, Electronic funds transfers, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

27 CFR Part 26

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

27 CFR Part 28

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

27 CFR Part 30

Liquors, Scientific equipment.

Proposed Regulatory Amendments

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 18, 19, 24, 25, 26, 27, 28, and 30 as set forth below:

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

1. The authority citation for part 18 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5171–5173, 5178, 5179, 5203, 5351, 5354, 5356, 5511, 5552, 6065, 6109, 7805.

2. [The proposed amendatory instructions and the proposed regulatory text for part 18 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

PART 19—DISTILLED SPIRITS PLANTS

3. The authority citation for part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5114, 5121–5124, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

4. [With the addition of the amendatory instructions and proposed regulatory text set forth below, the proposed amendatory instructions and the proposed regulatory text for part 19 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

§ 19.147 [Amended]

5. In § 19.147, paragraph (d) is amended by removing the word “monthly”.

6. Section 19.632 is revised to read as follows:

§ 19.632 Submission of reports.

(a) General. Each proprietor must submit reports of its distilled spirits plant operations to TTB in accordance with paragraph (b) of this section. The proprietor must submit the original reports to TTB and must retain a copy for its records. The required report forms are as follows:

(1) Report of Production Operations, form TTB F 5110.40, except that no report is required when production operations are suspended as provided in § 19.292;

(2) Report of Storage Operations, form TTB F 5110.11;

(3) Report of Processing Operations, form TTB F 5110.28; and

(4) Monthly Report of Processing (Denaturing) Operations, form TTB F 5110.43.

(b) Reporting periods. Each proprietor must submit the reports specified in paragraph (a) of this section to the Director, National Revenue Center, not later than the 15th day following the last day of the reporting periods specified in this paragraph. A proprietor may submit reports in either paper format or electronically via TTB Pay.gov. The required reporting periods are as follows:

(1) Monthly reporting periods. Except in cases where the proprietor must submit reports covering each calendar quarter or calendar year of operations under paragraphs (b)(2) or (b)(3) of this section, a proprietor must submit reports covering for each month of operations.

(2) Quarterly reporting periods. A proprietor must submit reports covering each calendar quarter of operations if both of the following are true:

(i) The proprietor files quarterly tax returns pursuant to § 19.235; and

(ii) The proprietor's liability for tax on spirits for which taxes have not been paid does not exceed \$50,000 at any time during the calendar year.

(3) Annual reporting periods. A proprietor must submit reports covering for each calendar year of operations if both of the following are true:

(i) The proprietor files annual tax returns pursuant to § 19.235; and

(ii) The proprietor's liability for tax on spirits for which taxes have not been paid does not exceed \$50,000 at any time during the calendar year.

(c) Loss of eligibility for quarterly or annual reporting—(1) General. If a proprietor is using a reporting period under paragraph (b)(2) or (b)(3) of this section but becomes required to use a more frequent reporting period due to changes in the proprietor's return filing frequency or tax liability, the proprietor must:

(i) File the appropriate report form or forms beginning with the first quarterly or monthly reporting period during which the proprietor became required to report in that period; and

(ii) Concurrently file the appropriate report form or forms covering any previous quarters of the calendar year (in the case of a proprietor who was previously authorized to submit reports annually) or any previous months of the calendar quarter (in the case of a proprietor who was previously authorized to submit reports quarterly).

(2) Required statement. When filing the first quarterly or monthly report form or forms described in paragraph (c)(1)(i) of this section, a proprietor must state on the form or forms that the proprietor is increasing the frequency of its reporting and henceforth will submit quarterly or monthly reports, as applicable. The proprietor must then continue to file the appropriate form or forms for each subsequent quarter or month of that calendar year.

(d) More frequent reporting required by TTB. The appropriate TTB officer may at any time require a proprietor who is reporting quarterly or annually to report more frequently if there is a jeopardy to the revenue.

PART 24—WINE

7. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

8. [The proposed amendatory instructions and the proposed regulatory text for part 24 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

PART 25—BEER

9. The authority citation for part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5121, 5122–5124, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

10. [With the addition of the amendatory instructions and proposed regulatory text set forth below, the proposed amendatory instructions and the proposed regulatory text for part 25 are the same as the amendatory instructions

and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

11. Section 25.297 is revised to read as follows:

§ 25.297 Report of Operations, Form 5130.9 or Form 5130.26.

(a) Monthly report of operations. Except as provided in paragraph (b) or (c) of this section, each brewer must prepare and submit a monthly report of brewery operations on Form 5130.9.

(b) Quarterly report of operations. A brewer must file quarterly Form 5130.9 or Form 5130.26 (or any successor forms) if both of the following are true:

- (1) The brewer files quarterly tax returns pursuant to § 25.164; and
- (2) The brewer's liability for tax on beer for which taxes have not been

paid does not exceed \$50,000 at any time during the calendar year.

(c) Annual report of operations. A brewer must file annual Form 5130.9 or Form 5130.26 (or any successor forms) if both of the following are true:

- (1) The brewer files annual tax returns pursuant to § 25.164; and
- (2) The brewer's liability for tax on beer for which taxes have not been

paid does not exceed \$50,000 at any time during the calendar year.

(d) Loss of eligibility for quarterly or annual reporting—(1) General. If a brewer using a reporting period under paragraph (b) or (c) of this section becomes required to use a more frequent reporting period, the brewer must:

- (i) File the appropriate report form beginning with the first quarterly or monthly period during which the brewer became required to use that period; and

(ii) Concurrently file the appropriate report form or forms covering any previous quarters of the calendar year (in the case of a brewer who was previously authorized to submit reports annually) or any previous months of the calendar quarter (in the case of a brewer who was previously authorized to submit reports quarterly).

(2) Required statement. When filing the first quarterly or monthly report described in paragraph (d)(1)(i) of this section, a brewer must state on the form that it is increasing the frequency of its reporting and henceforth will submit quarterly or monthly reports, as applicable. The brewer must then continue to file the appropriate form for each subsequent quarter or month of that calendar year.

(e) More frequent reporting required by TTB. The appropriate TTB officer may at any time require a brewer who is filing Form 5130.9 or Form 5130.26 quarterly or annually to file such reports more frequently if there is a jeopardy to the revenue.

(f) Submission and retention. The brewer may submit reports in either paper format or electronically via TTB Pay.gov. The brewer must retain a copy of Form 5130.9 or Form 5130.26 (or any successor form) in either paper or electronic format as part of the brewery records.

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

12. The authority citation for part 26 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275,

5301, 5314, 5555, 6001, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805;
27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

13. [The proposed amendatory instructions and the proposed regulatory text for part 26 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

14. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6109, 6302, 7805.

15. [The proposed amendatory instructions and the proposed regulatory text for part 27 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

PART 28—EXPORTATION OF ALCOHOL

16. The authority citation for part 28 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6109, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

17. [The proposed amendatory instructions and the proposed regulatory text for part 28 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

PART 30—GAUGING MANUAL

18. The authority citation for part 30 continues to read as follows:

Authority: 26 U.S.C. 7805.

19. [The proposed amendatory instructions and the proposed regulatory text for part 30 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**].

Signed: December 21, 2016.

Mary G. Ryan,

Acting Administrator.

Approved: December 22, 2016.

Timothy E. Skud,

Deputy Assistant Secretary.
(Tax, Trade, and Tariff Policy).

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