

(2) Only such geographical names for distilled spirits as the appropriate ATF officer finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples are London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Puerto Rico rum, Demerara rum.

(4) The words "Scotch", "Scots" "Highland", or "Highlands" and similar words connoting, indicating, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(1) *Class 12; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraphs (b) (1), (4), (5), and (6) of this section are distinctive products of the United States and if produced in a foreign country shall be designated by the applicable designation prescribed in such paragraphs, together with the words "American type" or the words "produced (distilled, blended) in \_\_\_\_\_", the blank to be filled in with the name of the foreign country: *Provided*, That the word "bourbon" shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country, an example is Habanero, shall not be given to the product of any other place or country unless the designation for such product includes the word "type" or an adjective such as "American", or the like, clearly indicating the true place of production. The provision for place

of production shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that the appropriate ATF officer finds they have become generic. Examples are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-7, 38 FR 33471, Dec. 5, 1973; T.D. ATF-36, 41 FR 47426, Oct. 29, 1976; T.D. ATF-37, 41 FR 48121, Nov. 2, 1976; T.D. ATF-48, 44 FR 55839, Sept. 28, 1979; T.D. ATF-62, 44 FR 71620, Dec. 11, 1979; T.D. ATF-66, 45 FR 40547, June 13, 1980; T.D. ATF-94, 46 FR 55096, Nov. 6, 1981; T.D. ATF-259, 52 FR 41422, Oct. 28, 1987; T.D. ATF-324, 57 FR 29020, June 30, 1992]

#### § 5.23 Alteration of class and type.

(a) *Additions.* (1) The addition of any coloring, flavoring, or blending materials to any class and type of distilled spirits, except as otherwise provided in this section, alters the class and type thereof and the product shall be appropriately redesignated.

(2) There may be added to any class or type of distilled spirits, without changing the class or type thereof, (i) such harmless coloring, flavoring, or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (ii) harmless coloring, flavoring, or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, infusion of oak chips when approved by the Director, or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring, or blending materials do not total more than 2½ percent by volume of the finished product.

(3) "Harmless coloring, flavoring, and blending materials" shall not include (i) any material which would render the product to which it is added an imitation, or (ii) any material, other than caramel, infusion of oak chips, and sugar, in the case of Cognac brandy; or (iii) any material whatsoever in the case of neutral spirits or straight whisky, except that vodka may be treated with sugar in an amount not to exceed

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2 grams per liter and a trace amount of citric acid.

(b) *Extractions.* The removal from any distilled spirits of any constituents to such an extent that the product does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits alters the class and type thereof, and the product shall be appropriately redesignated. In addition, in the case of straight whisky the removal of more than 15 percent of the fixed acids, or volatile acids, or esters, or soluble solids, or higher alcohols, or more than 25 percent of the soluble color, shall be deemed to alter the class or type thereof.

(c) *Exceptions.* (1) This section shall not be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky or as authorizing any product which is defined in § 5.22(j), Class 10, as an imitation to be otherwise designated.

(2) [Reserved]

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-360, 59 FR 67222, 67223, Dec. 29, 1994; T.D. ATF-369, 61 FR 67327, Dec. 29, 1995]

## Subpart Ca—Formulas

SOURCE: T.D. ATF-62, 44 FR 71620, Dec. 11, 1979, unless otherwise noted.

### § 5.25 Application.

The requirements of this subpart shall apply to:

(a) Proprietors of distilled spirits plants qualified as processors under 27 CFR part 19;

(b) Persons in Puerto Rico who manufacture distilled spirits products for shipment to the United States. Formulas need only be filed for those products which will be shipped to the United States; and

(c) Persons who ship into the United States, Virgin Islands distilled spirits products.

### § 5.26 Formula requirements.

(a) *General.* An approved formula is required to blend, mix, purify, refine, compound, or treat spirits in a manner which results in a change of character,

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composition, class or type of the spirits. Form 5110.38 (27-B Supplemental) shall be filed in accordance with the instructions on the form and shall designate all ingredients and, if required, the process used. Any approved formula on Form 27-B Supplemental or Form 5110.38 shall remain in effect until revoked, superseded, or voluntarily surrendered. Any existing qualifying statements as to the rate of tax or the limited use of drawback flavors appearing on a Form 27-B Supplemental are obsolete.

(b) *Change in formula.* Any change in an approved formula shall require the filing of a new Form 5110.38. After a change in a formula is approved, the original formula shall be surrendered to the appropriate ATF officer.

[T.D. ATF-62, 44 FR 71620, as amended by T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

### § 5.27 Formulas.

Formulas are required for distilled spirits operations which change the character, composition, class or type of spirits as follows:

(a) The compounding of spirits through the mixing of any coloring, flavoring, wine, or other material with distilled spirits;

(b) The manufacture of an intermediate product to be used exclusively in other distilled spirits products on bonded premises;

(c) Any filtering or stabilizing process which results in a product which does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits; and, in the case of straight whisky, results in the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or more than 25 percent of the soluble color;

(d) The mingling of spirits (including merchandise returned to bond) which differ in class or type of materials from which produced;

(e) The mingling of spirits stored in charred cooperage with spirits stored in plain or reused cooperage, or the mixing of spirits that have been treated with wood chips with spirits not so treated, or the mixing of spirits that have been subjected to any treatment which changes their character with