

§ 4.46

§ 4.46 Certificate of nonstandard fill.

A person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is:

(a) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(b) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(c) Exempt from the standard of fill requirements as provided by § 4.70(b)(1) or (2).

[T.D. ATF-76, 46 FR 1727, Jan. 7, 1981]

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in U.S. Customs custody, or remove such wine from the plant where bottled or packed, unless an approved certificate of label approval, ATF Form 5100.31, is issued by the appropriate ATF officer.

(b) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application the bottler or packer shows to the satisfaction of the appropriate ATF officer that the wine to be bottled or packed is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. Application for exemption shall be made on ATF Form 5100.31 in accordance with instructions on the form. If the application is approved, a certificate of exemption will be issued on the same form.

(c) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, and certificates of exemption from label approval, as well as appeal procedures, see part 13 of this chapter.

[T.D. ATF-66, 45 FR 40546, June 13, 1980, as amended by T.D. ATF-94, 46 FR 55095, Nov. 6, 1981; T.D. ATF-242, 51 FR 39525, Oct. 29, 1986; T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-406, 64 FR 2128, Jan. 13, 1999; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

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§ 4.51 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval or a certificate of exemption shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government.

§ 4.52 Photoprints.

Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable, for the purposes of §§ 4.50 through 4.52, as substitutes for an original or duplicate original of a certificate of label approval, or a certificate of exemption. The appropriate ATF officer will, upon the request of the bottler or packer, issue duplicate originals of certificates of label approval or of certificates of exemption if wine under the same brand is bottled or packed at more than one plant by the same person, and if the necessity for the duplicate originals is shown and there is listed with the appropriate ATF officer the name and address of the additional bottling or packing plant where the particular label is to be used.

Subpart G—Advertising of Wine

§ 4.60 Application.

No person engaged in the business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio or television broadcast, or in any newspaper, periodical, or any publication, by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of wine, if such advertising is in, or is calculated to induce sale in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 4.60-4.65 of this part. Provided, that such sections shall not apply to outdoor advertising in place on September 7, 1984, but shall apply upon replacement, restoration, or renovation of any such advertising; and provided further, that such sections

shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television broadcast, unless such retailer or publisher or radio or television broadcaster is engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly, or through an affiliate.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.61 Definitions.

As used in §§ 4.60 through 4.65 of this part, the term *advertisement* includes any written or verbal statement, illustration, or depiction which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any container of wine, or any individual covering, carton, or other wrapper of such container which constitute a part of the labeling under provisions of §§ 4.30-4.39 of this part.

(b) Any editorial or other reading material (*i.e.*, news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.62 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class, type, and distinctive designation.* The advertisement shall contain a conspicuous statement of the class, type, or distinctive designation to

which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required to appear on the label of the product.

(c) *Exception.* (1) If an advertisement refers to a general wine line or all of the wine products of one company, whether by the company name or by the brand name common to all the wine in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of wine is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.63 Legibility of mandatory information.

(a) Statements required under §§ 4.60 through 4.65 of this part to appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(d) Mandatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audiovisual media that it will be readily apparent to the persons viewing the advertisement.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]