

Subpart B—Definitions

11.11 Meaning of terms.

Subpart C—Unlawful Sales Arrangements

- 11.21 General.
 11.22 Consignment sales.
 11.23 Sales conditioned on the acquisition of other products.
 11.24 Other than a bona fide sale.

Subpart D—Rules for the Return of Distilled Spirits, Wine, and Malt Beverages

11.31 General.

EXCHANGES AND RETURNS FOR ORDINARY AND USUAL COMMERCIAL REASONS

- 11.32 Defective products.
 11.33 Error in products delivered.
 11.34 Products which may no longer be lawfully sold.
 11.35 Termination of business.
 11.36 Termination of franchise.
 11.37 Change in product.
 11.38 Discontinued products.
 11.39 Seasonal dealers.

EXCHANGES AND RETURNS FOR REASONS NOT CONSIDERED ORDINARY AND USUAL

- 11.45 Overstocked and slow-moving products.
 11.46 Seasonal products.

AUTHORITY: 15 U.S.C. 49-50; 27 U.S.C. 202 and 205.

SOURCE: T.D. ATF-74, 45 FR 63258, Sept. 23, 1980, unless otherwise noted.

Subpart A—Scope of Regulations**§ 11.1 General.**

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify arrangements which are consignment sales under section 105(d) of the Act and contain guidelines concerning return of distilled spirits, wine and malt beverages from a trade buyer. This part does not attempt to enumerate all of the practices prohibited by section 105(d) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

[T.D. ATF-364, 60 FR 20427, Apr. 26, 1995]

§ 11.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 11.3 Application.

(a) *General.* The regulations in this part apply to transactions between industry members and trade buyers.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions involving State agencies operating as retailers or wholesalers.

§ 11.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member sells, offers for sale, or contracts to sell to a trade buyer engaged in the sale of distilled spirits, wines, or malt beverages, or for any such trade buyer to purchase, offer to purchase, or contract to purchase, any such products on consignment or under conditional sale or with the privilege of return or on any basis other than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person from the trade buyer or the agreement to acquire from the trade buyer other distilled spirits, wine, or malt beverages; and,

(2) If: (i) The sale, purchase, offer or contract is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in using the practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the sale, purchase, offer or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(d) of the Federal Alcohol Administration Act (27 U.S.C. 205(d)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State.