

(iii) *Health-related directional statements.* A statement that directs consumers to a third party or other source for information regarding the effects on health of wine or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of wine or alcohol consumption; and

(B)(I) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: “This statement should not encourage you to drink or increase your alcohol consumption for health reasons;” or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(j) *Confusion of brands.* Two or more different brands or lots of wine shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 4.60 through 4.64 or are in any respect untrue.

(k) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. “Subliminal or similar techniques,” as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

[T.D. 6521, 25 FR 13843, Dec. 29, 1960, as amended by T.D. 6976, 33 FR 15025, Oct. 8, 1968; T.D. ATF-53, 43 FR 37678, Aug. 23, 1978; T.D. ATF-180, 49 FR 31672, Aug. 8, 1984; TTB T.D.-1, 68 FR 10103, Mar. 3, 2003]

§ 4.65 Comparative advertising.

(a) *General.* Comparative advertising shall not be disparaging of a competitor's product.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the *Manual on Sensory Testing Methods*, ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68-15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

[T.D. ATF-180, 49 FR 31673, Aug. 8, 1984]

Subpart H—Standards of Fill for Wine

§ 4.70 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70 through 4.73 do not apply to:

(1) Sake;

(2) Wine packed in containers of 18 liters or more;

(3) Imported wine in the original containers in which entered customs custody if the wine was bottled or packed before January 1, 1979; or

(4) Wine domestically bottled or packed, either in or out of customs custody, before October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents, and if the actual capacity of the container is not substantially

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less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Section 4.73 does not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by § 4.72.

[T.D. ATF-12, 39 FR 45222, Dec. 31, 1974, as amended by T.D. ATF-49, 43 FR 19848, May 9, 1978; T.D. ATF-76, 46 FR 1727, Jan. 7, 1981]

§ 4.71 Standard wine containers.

(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design*. It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use; and

(2) *Fill*. It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in § 4.72 or § 4.73; and

(3) *Headspace*. It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net content of the container is 187 milliliters or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

[T.D. ATF-12, 39 FR 45222, Dec. 31, 1974]

§ 4.72 Metric standards of fill.

(a) *Authorized standards of fill*. The standards of fill for wine are the following:

3 liters.	375 milliliters.
1.5 liters.	187 milliliters.
1 liter.	100 milliliters.
750 milliliters.	50 milliliters.
500 milliliters.	

(b) *Sizes larger than 3 liters*. Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.).

(c) *Tolerances*. The tolerances in fill are the same as are allowed by § 4.37 in

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respect to statement of net contents on labels.

[T.D. ATF-12, 39 FR 45223, Dec. 31, 1974, as amended by T.D. ATF-49, 43 FR 19848, May 9, 1978; T.D. ATF-76, 46 FR 1727, Jan. 7, 1981; T.D. ATF-303, 55 FR 42713, Oct. 23, 1990. Re-designated by T.D. ATF-953, 68 FR 39455, July 2, 2003]

Subpart I—General Provisions

§ 4.80 Exports.

The regulations in this part shall not apply to wine exported in bond.

Subpart J—American Grape Variety Names

SOURCE: T.D. ATF-370, 61 FR 539, Jan. 8, 1996, unless otherwise noted.

§ 4.91 List of approved prime names.

The following grape variety names have been approved by the Administrator for use as type designations for American wines. When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime grape names. Grape variety names may appear on labels of wine in upper or in lower case, and may be spelled with or without the hyphens or diacritic marks indicated in the following list.

Aglianico
Agwam
Albariño (Alvarinho)
Albemarle
Aleatico
Alicante Bouschet
Aligoté
Alvarelhão
Alvarinho (Albariño)
Arneis
Aurore
Bacchus
Baco blanc
Baco noir
Barbera
Beacon
Beclan
Bellandais
Beta
Black Corinth
Black Pearl
Blanc Du Bois
Blue Eye
Bonarda
Bountiful
Burdin 4672
Burdin 5201