

§ 5.28

formula shall be required for spirits redistilled into any type of neutral spirits other than vodka or spirits redistilled at less than 190 degrees of proof which lack the taste, aroma and other characteristics generally attributed to whisky, brandy, rum, or gin, and are designated as "Spirits," preceded or followed by a word or phrase descriptive of the material from which produced. Such spirits redistilled on or after July 1, 1972, may not be designated "Spirits Grain" or "Grain Spirits."

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-198, 50 FR 8463, Mar. 1, 1985, as amended by T.D. ATF-259, 52 FR 41423, Oct. 28, 1987]

§ 5.28 Adoption of predecessor's formulas.

The adoption by a successor of approved Forms 5110.38 (27-B Supplemental) shall be in the form of an application filed with the appropriate TTB officer. The application shall list the formulas for adoption by:

- (a) Formula number,
- (b) Name of product, and
- (c) Date of approval.

The application shall clearly show that the predecessor has authorized the use of his previously approved formulas by the successor.

Subpart D—Labeling Requirements for Distilled Spirits

§ 5.31 General.

(a) *Application.* No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, 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 distilled spirits in bottles, unless such bottles are marked, branded, labeled, or packaged, in conformity with §§ 5.31 through 5.42.

(b) *Alteration of labels.* It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign

27 CFR Ch. I (4-1-07 Edition)

commerce or after shipment therein, except:

- (1) As authorized by Federal law;
- (2) When an additional labeling or re-labeling of bottled distilled spirits is accomplished with labels covered by certificates of label approval which comply with the requirements of this part and with State law;
- (3) That there may be added to the bottle, after removal from customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-62, 44 FR 71621, Dec. 11, 1979; T.D. ATF-198, 50 FR 8464, Mar. 1, 1985]

§ 5.32 Mandatory label information.

There shall be stated:

- (a) On the brand label:
 - (1) Brand name.
 - (2) Class and type, in accordance with § 5.35.
 - (3) Alcoholic content, in accordance with § 5.37.
 - (4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in § 5.47, net contents in accordance with § 5.38(b) or § 5.38a(b)(2).
- (b) On the brand label or on a back label:
 - (1) Name and address, in accordance with § 5.36.
 - (2) In the case of imported spirits, the country of origin, in accordance with § 5.36.
 - (3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in § 5.47 or § 5.47a, net contents in accordance with § 5.38(a), § 5.38a(a), or § 5.38a(b)(1).
 - (4) Coloring or flavoring, in accordance with § 5.39.
 - (5) A statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.
 - (6) [Reserved]

(7) *Declaration of sulfites.* There shall be stated, the statement “Contains sulfites” or “Contains (a) sulfiting agent(s)” or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The sulfite declaration may appear on a strip label or neck label in lieu of appearing on the front or back label. The provisions of this paragraph shall apply to:

(i) Any certificate of label approval issued on or after January 9, 1987;

(ii) Any distilled spirits bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(iii) Any distilled spirits removed on or after January 9, 1988.

(8) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin, the name of the commodity only, in accordance with § 5.39.

(9) A statement of age or age and percentage, when required, in accordance with § 5.40.

(10) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with § 5.36.

(c) In the case of a container which has been excepted under the provisions of § 5.46(d), the information required to appear on the “brand label,” as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

(Paragraph (b)(7) approved by the Office of Management and Budget under Control No. 1512-0469)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-25, 41 FR 10220, Mar. 10, 1976; 41 FR 11022, Mar. 16, 1976; T.D. ATF-94, 46 FR 55096, Nov. 6, 1981; T.D. ATF-150, 48 FR 45556, Oct. 6, 1983; 48 FR 46518, Oct. 13, 1983; T.D. ATF-220, 50 FR 51852, Dec. 20, 1985; T.D. ATF-236, 51 FR 34710, Sept. 30, 1986; T.D. ATF-282, 54 FR 7162, Feb. 16, 1989; T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000; T.D. TTB-12, 69 FR 33574, June 16, 2004]

§ 5.32a Voluntary disclosure of major food allergens.

(a) *Definitions.* For purposes of this section the following terms have the meanings indicated.

(1) *Major food allergen.* Major food allergen means any of the following:

(i) Milk, egg, fish (for example, bass, flounder, or cod), Crustacean shellfish (for example, crab, lobster, or shrimp), tree nuts (for example, almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food specified in paragraph (a)(1)(i) of this section, except:

(A) Any highly refined oil derived from a food specified in paragraph (a)(1)(i) of this section and any ingredient derived from such highly refined oil; or

(B) A food ingredient that is exempt from major food allergen labeling requirements pursuant to a petition for exemption approved by the Food and Drug Administration (FDA) under 21 U.S.C. 343(w)(6) or pursuant to a notice submitted to FDA under 21 U.S.C. 343(w)(7), provided that the food ingredient meets the terms or conditions, if any, specified for that exemption.

(2) *Name of the food source from which each major food allergen is derived.* Name of the food source from which each major food allergen is derived means the name of the food as listed in paragraph (a)(1)(i) of this section, except that:

(i) In the case of a tree nut, it means the name of the specific type of nut (for example, almonds, pecans, or walnuts);

(ii) In the case of Crustacean shellfish, it means the name of the species of Crustacean shellfish (for example, crab, lobster, or shrimp); and

(iii) The names “egg” and “peanuts”, as well as the names of the different types of tree nuts, may be expressed in either the singular or plural form, and the term “soy”, “soybean”, or “soya” may be used instead of “soybeans”.

(b) *Voluntary labeling standards.* Major food allergens (defined in paragraph (a)(1) of this section) used in the production of a distilled spirit product may, on a voluntary basis, be declared on any label affixed to the container.