Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 5.32b Petitions for exemption from major food allergen labeling.

(a) Submission of petition. Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of § 5.32a. The burden is on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(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. However, if any one major food allergen is voluntarily declared, all major food allergens used in production of the distilled spirit product, including major food allergens used as fining or processing agents, must be declared, except when covered by a petition for exemption approved by the appropriate TTB officer under § 5.32b. The major food allergens declaration must consist of the word “Contains” followed by a colon and the name of the food source from which each major food allergen is derived (for example, “Contains: egg”).

(c) Cross reference. For mandatory labeling requirements applicable to distilled spirits products containing FD&C Yellow No. 5 and sulfites, see §§ 5.32(b)(5) and (7).
§ 5.33  Additional requirements.

(a) Contrasting background. Labels shall be so designed that the statements required by this subpart are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) Location of statements and size of type. (1) Statements required by this subpart, except brand names, shall appear generally parallel to the base on which the bottle rests as it is designed to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by this subpart, except brand names and the declaration of sulfites in §5.32(b)(7), shall be separate and apart from any other descriptive or explanatory matters.

(3) If not separate and apart from other descriptive or explanatory matter printed on the label, the statement to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

[T.D. TTB–53, 71 FR 42268, July 26, 2006]