

## § 5.53

the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-7, 38 FR 33471, Dec. 5, 1973]

### § 5.53 Certificate of nonstandard fill.

(a) Distilled spirits imported in original containers not conforming to the metric standards of fill prescribed in § 5.47a shall not be released from Customs custody after December 31, 1979:

(1) Unless the distilled spirits are accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to January 1, 1980; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1979.

(b) Distilled spirits imported in 500 ml containers shall not be released from Customs custody after June 30, 1989:

(1) Unless the distilled spirits are accompanied by a certificate issued by the government of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to July 1, 1989; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before June 30, 1989.

[T.D. ATF-25, 41 FR 10222, Mar. 10, 1976, as amended by T.D. ATF-228, 51 FR 16170, May 1, 1986]

## Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

### § 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (b) of this section, unless the proprietor possesses a certificate of label approval, TTB Form 5100.31, covering the labels on the bottle, issued by the appropriate TTB officer pursuant to application on such form. Application for certificates of label approval covering labels for

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imported gin bearing the word “distilled” as a part of the designation shall be accompanied by a statement prepared by the manufacturer setting forth a step-by-step description of the manufacturing process.

(b) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements in paragraph (a) of this section and § 5.56 if the bottler possesses a certificate of exemption from label approval, TTB Form 5100.31, issued by the appropriate TTB officer pursuant to application on that Form showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced into interstate or foreign commerce.

(c) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval, or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the appropriate TTB officer) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to an authorized officer of the U.S. Government.

(d) *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 40550, June 13, 1980, as amended by T.D. ATF-94, 46 FR 55097, Nov. 6, 1981; T.D. ATF-242, 51 FR 39525, Oct. 29, 1986; T.D. ATF-406, 64 FR 2129, Jan. 13, 1999]

### § 5.56 Certificates of age and origin.

Distilled spirits imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by § 5.52 for like distilled spirits imported in bottles.

## Subpart H—Advertising of Distilled Spirits

### § 5.61 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of

distilled spirits, 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 distilled spirits, if such advertising is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 5.61 through 5.66 of this part. Provided, that such sections shall not apply to outdoor advertising in place on (effective date of this treasury decision), 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 distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

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

#### § 5.62 Definition.

As used in §§ 5.61 through 5.66 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 in any written, printed, graphic, or other matter accompanying the bottle, representations made on cases or in any billboard, sign, 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 bottle of distilled spirits; or any individual covering, carton, or other container of the bottle which constitute a part of the labeling under §§ 5.31 through 5.42 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 31673, Aug. 8, 1984]

#### § 5.63 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 and type.* The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcohol content*—(1) *Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at \_\_\_\_\_ percent-alcohol-by-volume."

(2) *Optional statement.* In addition, the advertisement may also state the alcohol content in degrees of proof if this information appears in direct conjunction (*i.e.* with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(d) *Percentage of neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been