

### § 13.43

### 27 CFR Ch. I (4–1–02 Edition)

that a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been issued for a label or bottle that is not in compliance with the laws or regulations, he or she must issue to the certificate holder a notice of proposed revocation. The notice must set forth the basis for the proposed revocation and must provide the certificate holder with 45 days from the date of receipt of the notice to present written arguments or evidence why the revocation should not occur.

#### § 13.43 Decision after notice of proposed revocation.

(a) *Decision.* After considering any written arguments or evidence presented by the certificate holder, the appropriate ATF officer must issue a decision. If the decision is to revoke the certificate, a letter must be sent to the holder explaining the revocation of the certificate, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter of explanation must be sent.

(b) *Time limits for decision.* Within 90 days of receipt of written arguments or evidence from the certificate holder, the appropriate ATF officer shall notify the appellant of his or her decision. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate ATF officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by a proposed revocation. If the appropriate ATF officer extends the time period, he or she must notify the applicant by letter, along with a brief explanation of the issues under consideration.

#### § 13.44 Appeal of revocation.

(a) *Filing of appeal.* A certificate holder who wishes to appeal the decision to revoke a certificate of label approval,

certificate of exemption from label approval, or distinctive liquor bottle approval, may file a written appeal setting forth why the holder believes that the decision was erroneous. The appeal must be filed with the appropriate ATF officer within 45 days after the date of receipt of the decision to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

(b) *Judicial review.* An appeal to the appropriate ATF officer is required prior to application to the Federal courts for review of any revocation of a certificate.

[T.D. ATF-449, 66 FR 19086, Apr.13, 2001]

#### § 13.45 Final decision after appeal.

(a) *Issuance of decision.* After considering any written arguments or evidence presented by the certificate holder or the holder's representative, the appropriate ATF officer must issue a final decision. If the decision is to revoke the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and the specific laws or regulations relied upon in determining that the label or bottle was not in conformance with law or regulations. If the decision is to withdraw the proposed revocation, a letter explaining the decision must be sent.

(b) *Time limits for decision.* Within 90 days of receipt of an appeal, the appropriate ATF officer must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate ATF officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the appropriate ATF officer extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The

final decision after appeal will be the final decision of ATF.

[T.D. ATF-406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF-449, 66 FR 19086, Apr. 13, 2001]

### Subpart E—Revocation by Operation of Law or Regulation

#### § 13.51 Revocation by operation of law or regulation.

ATF will not individually notify all holders of certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals, that their approvals have been revoked if the revocation occurs by operation of law or regulation. If changes in labeling or other requirements are made as a result of amendments or revisions to the law or regulations, the certificate holder must voluntarily surrender all certificates that are no longer in compliance. The holder must submit applications for new certificates in compliance with the new requirements, unless ATF determines that new applications are not necessary. If a new application is unnecessary, it is the responsibility of the certificate holder to ensure that labels are in compliance with their requirements of the new regulations or law.

#### § 13.52 Notice of revocation.

If ATF determines that a certificate holder is still using a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval that is no longer in compliance due to amendments or revisions in the law or regulations, the appropriate ATF officer will notify the certificate holder in writing that the subject certificate has been revoked by operation of law or regulations, with a brief description of the grounds for such revocation.

#### § 13.53 Appeal of notice of revocation.

Within 45 days after the date of receipt of a notice of revocation by operation of law or regulations, the certificate holder may file a written appeal with the appropriate ATF officer. The appeal should set forth the reasons why the certificate holder believes that the

regulation or law at issue does not require the revocation of the certificate.

#### § 13.54 Decision after appeal.

(a) *Issuance of decision.* After considering all written arguments and evidence submitted by the certificate holder, the appropriate ATF officer must issue a final decision regarding the revocation by operation of law or regulation of the certificate. If the decision is that the law or regulation at issue requires the revocation of the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and citing the specific laws or regulations which required the revocation of the certificate. If the decision is that the law or regulation at issue does not require the revocation of such certificate, a letter explaining the decision must be sent to the certificate holder. The decision after appeal will be the final decision of the ATF.

(b) *Time limits for decision.* Within 90 days of receipt of an appeal, the appropriate ATF officer must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate ATF officer may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the appropriate ATF officer extends the period, he or she must notify the holder by letter, briefly explaining the issues presented by the label. The decision of the appropriate ATF officer shall be the final decision of the ATF.

[T.D. ATF-406, 64 FR 2129, Jan. 13, 1999, as amended by T.D. ATF-449, 66 FR 19086, Apr. 13, 2001]

### Subpart F—Miscellaneous

#### § 13.61 Publicity of information.

(a) *Pending and denied applications.* Pending and denied applications for