

§ 4.32

27 CFR Ch. I (4-1-02 Edition)

Dec. 15, 1936, and imported wine entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded and labeled in accordance with this article, if the labels on such wine (1) bear all the mandatory label information required by § 4.32, even though such information is not set forth in the manner and form as required by § 4.32 and other sections of this title referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(b) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label upon wine held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law, or except as provided in paragraph (b)(2) of this section: *Provided*, That the appropriate ATF officer may, upon written application, permit additional labeling or relabeling of wine for purposes of compliance with the requirements of this part or of State law.

(2) No application for permission to relabel wine need be made in any case where there is added to the container, after removal from customs custody or from the premises where bottled or packed, a label identifying the wholesale or retail distributor thereof, and containing no reference whatever to the characteristics of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

CROSS REFERENCE: For customs warehouses and control of merchandise therein, see 19 CFR part 19.

§ 4.32 Mandatory label information.

(a) There shall be stated on the brand label:

(1) Brand name, in accordance with § 4.33.

(2) Class, type, or other designation, in accordance with § 4.34.

(3) Alcohol content, in accordance with § 4.36.

(4) On blends consisting of American and foreign wines, if any reference is made to the presence of foreign wine, the exact percentage by volume.

(b) There shall be stated on any label affixed to the container:

(1) Name and address, in accordance with § 4.35.

(2) Net contents, in accordance with § 4.37. If the net contents is a standard of fill other than an authorized metric standard of fill as prescribed in § 4.73, the net contents statement shall appear on a label affixed to the front of the bottle.

(c) There shall be stated on the brand label or on a back label 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.

(d) There shall be stated on a front or back label, separate and apart from all other information, the following statement when saccharin is present in the finished product: Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals.

(e) *Declaration of sulfites.* There shall be stated on a front label, back label, strip label or neck label, 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 provisions of this paragraph shall apply to:

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

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

(3) Any wine removed on or after January 9, 1988.

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

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-150, 48 FR 45556, Oct. 6, 1983; T.D. ATF-195, 50 FR 763, Jan. 7, 1985; 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 31076, 31077, July 9, 1991]

§ 4.33 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the

brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate ATF officer finds that such brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualifications shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 4.34 Class and type.

(a) The class of the wine shall be stated in conformity with subpart C of this part if the wine is defined therein, except that "table" ("light") and "dessert" wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any varietal (grape type) designation, type designation of varietal significance, semigeneric geographic type designation, or geographic distinctive designation, to which the wine may be entitled. In the case of champagne, or crackling wines, the type designation "champagne" or "crackling wine" ("petillant wine", "frizzante wine") may appear in lieu of the class designation "sparkling wine". In the case of wine which has a total solids content of more than 17 grams per 100 cubic centimeters the words "extra sweet", "specially sweetened", "specially sweet" or "sweetened with excess sugar" shall be stated as a part of the class and type designation. The

last of these quoted phrases shall appear where required by part 24 of this chapter, on wines sweetened with sugar in excess of the maximum quantities specified in such regulations. If the class of the wine is not defined in subpart C, a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. The statement of composition will not include any reference to a varietal (grape type) designation, type designation of varietal significance, semi-generic geographic type designation, or geographic distinctive designation. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An appellation of origin such as "American," "New York," "Napa Valley," or "Chilean," disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation if:

(1) A varietal (grape type) designation is used under the provisions of § 4.23;

(2) A type designation of varietal significance is used under the provisions of § 4.28;

(3) A semi-generic type designation is employed as the class and type designation of the wine pursuant to § 4.24(b);

(4) A product name is qualified with the word "Brand" under the requirements of § 4.39 (j); or

(5) The wine is labeled with the year of harvest of the grapes, and otherwise conforms with the provisions of § 4.27. The appellation of origin for vintage wine shall be other than a country.

[T.D. ATF-53, 43 FR 37677, Aug. 23, 1978; T.D. ATF-48, 44 FR 55839, Sept. 28, 1979, as amended by T.D. ATF-195, 50 FR 763, Jan. 7, 1985; T.D. ATF-229, 51 FR 20482, June 5, 1986; T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-370, 61 FR 539, Jan. 8, 1996; T.D. ATF-431, 65 FR 59724, Oct. 6, 2000]