

§ 13.43

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,

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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