

(3) Not to exceed 0.15 percent alcohol by volume for all other spirits.

(Approved by the Office of Management and Budget under Control Number 1512-0482)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5301(a)); 49 Stat. 917, as amended (27 U.S.C. 205(e))

[T.D. ATF-237, 51 FR 36394, Oct. 10, 1986, as amended by T.D. ATF-288, 54 FR 47769, Nov. 17, 1989]

#### § 5.38 Net contents.

(a) *Bottles conforming to metric standards of fill.* The net contents of distilled spirits shall be stated in the same manner and form as set forth in the standards of fill in § 5.47a.

(b) *Bottles not conforming to the metric standards of fill.* The net contents for distilled spirits bottled before January 1, 1980, in bottles not conforming to the metric standards of fill, shall be stated in the same manner and form as set forth in § 5.47(a), except for cordials and liqueurs, cocktails, highballs, bitters and specialties, as specified by the Director. The net contents for these specialty products shall be stated in U.S. measure (i.e., gallons, quarts, pints, fluid ounces).

(c) *Net contents marked in bottles.* The net contents need not be marked on any label if they are legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the appropriate ATF officer on the side, front, or back of the container in an unobscured location. Containers of 200 ml or greater capacity shall bear letters and figures of not less than one-quarter inch height.

(d) *Qualifying statements.* Words or phrases qualifying statements of net contents are prohibited.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

[T.D. ATF-146, 48 FR 43321, Sept. 23, 1983, as amended by T.D. ATF-249, 52 FR 5956, Feb. 27, 1987]

#### § 5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) *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 distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: “\_\_\_\_\_ % neutral spirits distilled from \_\_\_\_\_ (insert grain, cane products, or fruit as appropriate)”; or “\_\_\_\_\_ % neutral spirits (vodka) distilled from \_\_\_\_\_ (insert grain, cane products, or fruit, as appropriate)”; or “\_\_\_\_\_ % grain (cane products), (fruit) neutral spirits”, or “\_\_\_\_\_ % grain spirits.”

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin have been distilled. The statement of the name of the commodity shall be made in substantially the following form: “Distilled from grain”, or “Distilled from cane products”, or “Distilled from fruit”.

(b) *Coloring materials.* The words “artificially colored” shall be stated on the label of any distilled spirits containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words “artificially colored” a truthful and adequate statement of the source of the color;

(2) If no coloring material other than those certified as suitable for use in foods by the Food and Drug Administration has been added, there may be stated in lieu of the words “artificially colored,” the words “certified color added”; and

(3) If no coloring material other than caramel has been added, there may be stated in lieu of the words “artificially colored,” the words “colored with caramel,” or a substantially similar statement, but no such statement is required for the use of caramel in brandy,