

§ 5.37

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shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The appropriate TTB officer may, however, require the State of distillation to be shown on the label or he may permit such other labeling as may be necessary to negate any misleading or deceptive impression which might be created as to the actual State of distillation. In the case of "light whisky", as defined in § 5.22(b)(3), the State of distillation shall not appear in any manner on any label, when the appropriate TTB officer finds such State is associated by consumers with an American type whisky, except as a part of a name and address as set forth in paragraph (a) of this section.

(e) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form "Product of _____", the blank to be filled in with the name of the country of origin.

(f) *Trade names.* The trade name of any permittee appearing on any label must be identical to the trade name listed on the permittee's basic permit.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-62, 44 FR 71621, Dec. 11, 1979; T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; T.D. ATF-259, 52 FR 41423, Oct. 28, 1987; T.D. ATF-260, 52 FR 42101, Nov. 3, 1987; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

§ 5.37 Alcohol content.

(a) *Statements*—(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 label 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.

(b) *Tolerances.* The following tolerances shall be allowed (without affecting the labeled statement of alcohol content) for losses of alcohol content occurring during bottling:

(1) Not to exceed 0.25 percent alcohol by volume for spirits containing solids in excess of 600 mg per 100 ml; or

(2) Not to exceed 0.25 percent alcohol by volume for any spirits product bottled in 50 or 100 ml size bottles; or

(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 Administrator. 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 TTB 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, rum, or tequila, or in any type of whisky other than straight whisky.

(c) *Treatment with wood.* The words “colored and flavored with wood _____ (insert chips, slabs, etc., as appropriate)” shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation or storage, other than through contact with the oak container. *Provided*, that the above statement shall not apply to brandy treated with an infusion of oak chip in accordance with § 5.23(a).

[T.D. 720, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-94, 46 FR 55097, Nov. 6, 1981; T.D. ATF-292, 55 FR 1065, Jan. 11, 1990]

§ 5.40 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* In the case of straight whisky bottled in conformity with the bottled in bond labeling requirements and of domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years old or more, statements of age and percentage are optional. As to all other whiskies there shall be stated the following:

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, the age of the youngest whisky. The age statement shall read substantially as follows: “_____ years old.”

(2) In the case of whisky, containing neutral spirits, if any of the straight whisky and/or other whisky is less than 4 years old, the percentage by volume of straight whisky and/or other whisky, and the age of the straight whisky