

§4.37

27 CFR Ch. I (4–1–23 Edition)

wine so labeled and nothing in this section shall be construed as authorizing the appearance upon the labels of any wine of an alcoholic content statement in terms of maximum and minimum percentages which overlaps a prescribed limitation on the alcoholic content of any class, type, or taxable grade of wine, or a direct statement of alcoholic content which indicates that the alcoholic content of the wine is within such a limitation when in fact it is not.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-275, 53 FR 27046, July 18, 1988; T.D. TTB-114, 78 FR 34568, June 10, 2013]

§4.37 Net contents.

(a) *Statement of net contents.* The net contents of wine for which a standard of fill is prescribed in §4.72 shall be stated in the same manner and form as set forth in the standard of fill. The net content of wine for which no standard of fill is prescribed in §4.72 shall be stated in the metric system of measure as follows:

(1) If more than one liter, net contents shall be stated in liters and in decimal portions of a liter accurate to the nearest one-hundredth of a liter.

(2) If less than one liter, net contents shall be stated in milliliters (ml).

(b) *Statement of U.S. equivalent net contents.* When net contents of wine are stated in metric measure, the equivalent volume in U.S. measure may also be shown. If shown, the U.S. equivalent volume will be shown as follows:

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 500 ml (16.9 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces will be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml (23.7 fl. oz.).

(3) Equivalent volumes of 100 fluid ounces or more will be stated in fluid ounces only, accurate to the nearest whole fluid ounce; for example, 6 liters (203 fl. oz.).

(c) *Net contents marked in bottle.* The net contents need not be stated on any label if the net contents are displayed

by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the appropriate TTB officer, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(d) *Tolerances.* Statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers, resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(e) *Unreasonable shortages.* Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

[T.D. ATF-12, 39 FR 45222, Dec. 31, 1974, as amended by T.D. ATF-49, 43 FR 19848, May 9, 1978; T.D. ATF-76, 46 FR 1727, Jan. 7, 1981; T.D. ATF-303, 55 FR 42713, Oct. 23, 1990; T.D. TTB-91, 76 FR 5476, Feb. 1, 2011]

§4.38 General requirements.

(a) *Legibility.* All labels shall be so designed that all the statements thereon required by §§4.30 through 4.39 are readily legible under ordinary conditions,

and all such statement shall be on a contrasting background.

(b) *Size of type.* (1) Containers of more than 187 milliliters. All mandatory information required on labels by this part, except the alcoholic content statement, shall be in script, type, or printing not smaller than 2 millimeters; except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(2) Containers of 187 milliliters or less. All mandatory information required on labels by this part, except the alcoholic content statement, shall not be smaller than 1 millimeter, except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(3) Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 3 millimeters nor smaller than 1 millimeter on labels of containers having a capacity of 5 liters or less and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language, except that the brand name, the place of production, and the name of the manufacturer, producer, blender, bottler, packer, or shipper appearing on the label need not be in the English language if the words "product of" immediately precede the name of the country of origin stated in accordance with customs requirements. Additional statements in foreign languages may be made on labels, if they do not in any way conflict with, or contradict the requirements of §§ 4.30 through 4.39.

(d) *Location of label.* Labels shall not obscure Government stamps nor be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 4.30 through 4.39, if such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by this part. In addition, information which is truthful, accurate, and specific, and which is neither disparaging nor misleading may appear on wine labels.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30 through 4.39 or percentage statements required or permitted by this part) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in its production, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the appropriate TTB officer, there shall be submitted a full and accurate statement of the contents of the containers to which labels are to be or have been affixed.

[T.D. ATF-53, 43 FR 37677, Aug. 23, 1978, as amended by T.D. ATF-66, 45 FR 40544, June 13, 1980; T.D. ATF-94, 46 FR 55095, Nov. 6, 1981; T.D. ATF-249, 52 FR 5955, Feb. 27, 1987; T.D. ATF-275, 53 FR 27046, July 18, 1988; T.D. ATF-312, 56 FR 31077, July 9, 1991]

§ 4.38a Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 4.30 through 4.39 on labels.

(b) *Sealed cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than a shipping container), such coverings, cartons, or other containers must bear all mandatory label information.