

§ 4.40

27 CFR Ch. I (4–1–23 Edition)

of this part. Additionally, the name of a vineyard, orchard, farm or ranch shall not be used on a wine label, unless 95 percent of the wine in the container was produced from primary winemaking material grown on the named vineyard, orchard, farm or ranch.

(n) *Use of a varietal name, type designation of varietal significance, semi-generic name, or geographic distinctive designation.* Labels that contain in the brand name, product name, or distinctive or fanciful name, any varietal (grape type) designation, type designation of varietal significance, semi-generic geographic type designation, or geographic distinctive designation, are misleading unless the wine is made in accordance with the standards prescribed in classes 1, 2, or 3 of § 4.21. Any other use of such a designation on other than a class 1, 2, or 3 wine is presumed misleading.

[T.D. 6521, 25 FR 13841, Dec. 29, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 4.39, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

§ 4.40 Label approval and release.

(a) *Certificate of label approval.* Wine, imported in containers, is not eligible for release from customs custody for consumption, and no person may remove such wine from customs custody for consumption, unless the person removing the wine has obtained and is in possession of a certificate of label approval (COLA) and the containers bear labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by the form. Any person removing wine in containers from customs custody for consumption must first apply for and obtain a COLA covering the wine from the appropriate TTB officer, or obtain authorization to use the COLA from the person to whom the COLA is issued. Products imported under another person's COLA are eligible for release only if each bottle or individual

container to be imported bears the name (or trade name) and address of the person to whom the COLA was issued by TTB, and only if the importer using the COLA to obtain release of a shipment can substantiate that the person to whom the COLA was issued has authorized its use by the importer. If filing electronically, the importer must file with U.S. Customs and Border Protection (CBP), at the time of filing the customs entry, the TTB-assigned number of the valid COLA that corresponds to the label on the brand or lot of wine to be imported. If the importer is not filing electronically, the importer must provide a copy of the COLA to CBP at time of entry. In addition, the importer must provide a copy of the applicable COLA, and proof of the COLA holder's authorization if applicable, upon request by the appropriate TTB officer or a customs officer. The COLA requirement imposed by this section applies only to wine that is removed for sale or any other commercial purpose. See 27 CFR 27.49, 27.74 and 27.75 for labeling exemptions applicable to certain imported samples of wine.

(b) [Reserved]

(c) *Relabeling.* Imported wine in U.S. Customs custody which is not labeled in conformity with certificates of label approval issued by the appropriate TTB officer must be relabeled prior to release under the supervision and direction of customs officers of the port at which the wine is located.

(d) *Cross reference.* For procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures, see part 13 of this chapter.

(Approved by the Office of Management and Budget under control numbers 1513–0020 and 1513–0064)

[T.D. ATF–66, 45 FR 40546, June 13, 1980, as amended by T.D. ATF–94, 46 FR 55095, Nov. 6, 1981; T.D. ATF–242, 51 FR 39525, Oct. 29, 1986; T.D. ATF–359, 59 FR 42160, Aug. 17, 1994; T.D. ATF–406, 64 FR 2128, Jan. 13, 1999; T.D. TTB–145, 81 FR 94197, Dec. 22, 2016]

§ 4.45 Certificates of origin, identity and proper cellar treatment.

(a) *Certificate of origin and identity.* Wine imported in containers is not eligible for release from customs custody for consumption, and no person may

remove such wine from customs custody for consumption, unless that person has obtained, and is in possession of an invoice accompanied by a certificate of origin issued by the appropriate foreign government if that country requires the issuance of such a certificate for wine exported from that country. The certificate must have been issued by an official duly authorized by the foreign government, and it must certify as to the identity of the wine and that the wine has been produced in compliance with the laws of the foreign country regulating the production of the wine for home consumption.

(b) *Certification of proper cellar treatment of natural wine*—(1) *General*. An importer of wine may be required to have in his or her possession at the time of release of the wine from customs custody a certification or may have to comply with other conditions prescribed in § 27.140 of this chapter regarding proper cellar treatment. If imported wine requires a certification under § 27.140, the importer must provide a copy of that certification to TTB as follows:

(i) The importer must attach a copy of the certification to the application for a certificate of label approval for the wine in question submitted under § 13.21 of this chapter; or

(ii) If a certification for the wine in question was not available when the importer submitted the application for label approval, the importer must submit a copy of the certification to the appropriate TTB officer prior to release from customs custody of the first shipment of the wine.

(2) *Validity of certification*. A certification submitted under paragraph (b)(1) of this section is valid as long as the wine is of the same brand and class or type, was made by the same producer, was subjected to the same cellar treatment, and conforms to the statements made on the certification. Accordingly, if the cellar treatment of the wine changes and a new certification under § 27.140 is required, an importer is required to submit a new certification for the wine even though it is subject to the same label approval.

(3) *Use of certification*. TTB may use the information from a certification for purposes of verifying the appro-

priate class and type designation of the wine under the labeling provisions of this part. TTB will make certifications submitted under paragraph (b)(1) of this section available to the public on the TTB Internet Web site at www.ttb.gov.

(c) *Retention of certificates*. The importer of wine imported in containers must retain for five years following the date of the removal of the bottled wine from customs custody copies of the certificates (and accompanying invoices, if required) required by paragraphs (a) and (b) of this section, and must provide them upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control numbers 1513-0064 and 1513-0119)

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. TTB-31, 70 FR 49482, Aug. 24, 2005; T.D. TTB-145, 81 FR 94197, Dec. 22, 2016]

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in U.S. Customs custody, or remove such wine from the plant where bottled or packed, unless an approved certificate of label approval, TTB Form 5100.31, is issued by the appropriate TTB officer.

(b) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application the bottler or packer shows to the satisfaction of the appropriate TTB officer that the wine to be bottled or packed is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. Application for exemption shall be made on TTB Form 5100.31 in accordance with instructions on the form. If the application is approved, a certificate of exemption will be issued on the same form.

(c) *Cross reference*. For procedures regarding the issuance, denial, and revocation of certificates of label approval, and certificates of exemption