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(2) The validity of the name for identifying the grape variety,

(3) That the variety is used or will be used in winemaking, and

(4) That the variety is grown and used in the United States.

(b) For the approval of names of new grape varieties, documentation submitted with the petition to establish the items in paragraph (a) of this section may include—

(1) reference to the publication of the name of the variety in a scientific or professional journal of horticulture or a published report by a professional, scientific or winegrowers' organization,

(2) reference to a plant patent, if so patented, and

(3) information pertaining to the commercial potential of the variety, such as the acreage planted and its location or market studies.

(c) The Administrator will not approve a grape variety name if:

(1) The name has previously been used for a different grape variety;

(2) The name contains a term or name found to be misleading under § 4.39; or

(3) The name of a new grape variety contains the term "Riesling."

(d) For new grape varieties developed in the United States, the Administrator may determine if the use of names which contain words of geographical significance, place names, or foreign words are misleading under § 4.39. The Administrator will not approve the use of a grape variety name found to be misleading.

(e) The Administrator shall publish the list of approved grape variety names at least annually in the FEDERAL REGISTER.

(Approved by the Office of Management and Budget under Control Number 1512-0513)

Subpart K—Use of the Term "Organic"

§ 4.101 Use of the term "organic."

(a) Use of the term "organic" is optional and is treated as "additional information on labels" under § 4.38(f).

(b) Any use of the term "organic" on a wine label or in advertising of wine must comply with the United States Department of Agriculture's (USDA)

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National Organic Program rules (7 CFR part 205) as interpreted by the USDA.

(c) This section applies to labels and advertising that use the term "organic" on and after October 21, 2002.

[T.D. ATF-483, 67 FR 62858, Oct. 8, 2002]

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

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AUTHORITY: 26 U.S.C. 5301, 7805, 27 U.S.C. 205 and 207.

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§ 5.0 Scope.

This part sets forth requirements that apply to the labeling and packaging of distilled spirits in containers, including requirements for label approval and rules regarding mandatory, regulated, and prohibited labeling statements. This part also sets forth requirements that apply to the advertising of distilled spirits.

Subpart A—General Provisions

§ 5.1 Definitions.

When used in this part and on forms prescribed under this part, the following terms have the meaning assigned to them in this section, unless the terms appear in a context that requires a different meaning. Any other term defined in the Federal Alcohol Administration Act (FAA Act) and used in this part has the same meaning assigned to it by the FAA Act.

Administrator. The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

Advertisement or Advertising. See § 5.232 for meaning of these terms as used in subpart N of this part.

Age. The length of time during which, after distillation and before bottling,

the distilled spirits have been stored in oak barrels. “Age” for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak barrels.

American proof. See *Proof*.

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any function relating to the administration or enforcement of this part by the current version of TTB Order 1135.5, Delegation of the Administrator’s Authorities in 27 CFR part 5, Labeling and Advertising of Distilled Spirits.

Bottler. Any distiller or processor of distilled spirits who places distilled spirits in containers.

Brand name. The name under which a distilled spirit or a line of distilled spirits is sold.

Certificate holder. The permittee or brewer whose name, address, and basic permit number, plant registry number, or brewer’s notice number appears on an approved TTB Form 5100.31.

Certificate of exemption from label approval. A certificate issued on TTB Form 5100.31, which authorizes the bottling of wine or distilled spirits, under the condition that the product will under no circumstances be sold, offered for sale, shipped, delivered for shipment, or otherwise introduced by the applicant, directly or indirectly, into interstate or foreign commerce.

Certificate of label approval (COLA). A certificate issued on TTB Form 5100.31 that authorizes the bottling of wine, distilled spirits, or malt beverages, or the removal of bottled wine, distilled spirits, or malt beverages from customs custody for introduction into commerce, as long as the product bears labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by TTB on the certificate or otherwise (such as through the issuance of public guidance available on the TTB website at <https://www.ttb.gov>).

Container. Any can, bottle, box, cask, keg, or other closed receptacle, in any size or material, which is for use in the sale of distilled spirits at retail. See

subpart K of this part for rules regarding authorized standards of fill for containers.

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use. The term “distilled spirits” does not include mixtures containing wine, bottled at 48 degrees of proof (24 percent alcohol by volume) or less, if the mixture contains more than 50 percent wine on a proof gallon basis. The term “distilled spirits” also does not include products containing less than one degree of proof (0.5 percent alcohol by volume).

Distilling season. The period from January 1 through June 30, which is the spring distilling season, or the period from July 1 through December 31, which is the fall distilling season.

Distinctive or fanciful name. A descriptive name or phrase chosen to identify a distilled spirits product on the label. It does not include a brand name, class or type designation, or statement of composition.

FAA Act. The Federal Alcohol Administration Act.

Gallon. A U.S. gallon of 231 cubic inches at 60 degrees Fahrenheit.

Grain. Includes cereal grains and the seeds of the pseudocereals amaranth, buckwheat, and quinoa.

In bulk. In barrels or other receptacles having a capacity in excess of 1 wine gallon (3.785 liters).

Interstate or foreign commerce. Commerce between any State and any place outside of that State or commerce within the District of Columbia or commerce between points within the same State but through any place outside of that State.

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters or 1,000 milliliters (mL) of distilled spirits at 15.56 degrees Celsius (60 degrees Fahrenheit), and equivalent to 33.814 U.S. fluid ounces.

Net contents. The amount, by volume, of distilled spirits held in a container.

Permittee. Any person holding a basic permit under the FAA Act.

Person. Any individual, corporation, partnership, association, joint-stock company, business trust, limited liability company, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision of a State.

Produced at or distilled at. When used with reference to specific degrees of proof of a distilled spirits product, the phrases “produced at” and “distilled at” mean the composite proof of the distilled spirits after completion of distillation and before reduction in proof, if any.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit that contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit, referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Responsible advertiser. The permittee responsible for the publication or broadcast of an advertisement.

Spirits. See Distilled spirits.

State. One of the 50 States of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

TTB. The Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

United States (U.S.). The 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 5.2 Territorial extent.

The provisions of this part apply to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 5.3 General requirements and prohibitions under the FAA Act.

(a) *Certificates of label approval (COLAs).* Subject to the requirements and exceptions set forth in the regulations in subpart B of this part, any bottler of distilled spirits, and any person who removes distilled spirits in containers from customs custody for

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sale or any other commercial purpose, is required to first obtain from TTB a COLA covering the label(s) on each container.

(b) *Alteration, mutilation, destruction, obliteration, or removal of labels.* Subject to the requirements and exceptions set forth in the regulations in subpart C of this part, it is unlawful to alter, mutilate, destroy, obliterate, or remove labels on distilled spirits containers. This prohibition applies to any person, including retailers, holding distilled spirits for sale in interstate or foreign commerce or any person holding distilled spirits for sale after shipment in interstate or foreign commerce.

(c) *Labeling requirements for distilled spirits.* It is unlawful for any person engaged in business as a distiller, rectifier (processor), importer, wholesaler, bottler, or warehouseman and bottler, directly or indirectly, or through an affiliate, to sell or ship, or deliver for sale or shipment, or otherwise introduce or receive in interstate or foreign commerce, or remove from customs custody, any distilled spirits in containers unless such containers are marked, branded, labeled, and packaged in conformity with the regulations in this part.

(d) *Labeled in accordance with this part.* In order to be labeled in accordance with the regulations in this part, a container of distilled spirits must be in compliance with the following requirements:

(1) It must bear one or more label(s) meeting the standards for “labels” set forth in subpart D of this part;

(2) One or more of the labels on the container must include the mandatory information set forth in subpart E of this part;

(3) Claims on any label, container, or packaging (as defined in §5.81) must comply with the rules for restricted label statements, as applicable, set forth in subpart F of this part;

(4) Statements or any other representations on any label, container, or packaging (as defined in §§5.101 and 5.121) may not violate the regulations in subparts G and H of this part regarding certain practices on labeling of distilled spirits; and

(5) The class and type designation on any label, as well as any designation

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appearing on containers or packaging, must comply with the standards of identity set forth in subpart I of this part.

(e) *Packaged in accordance with this part.* In order to be packaged in accordance with the regulations in this part, the distilled spirits must be bottled in authorized standards of fill in containers that meet the requirements of subpart K of this part.

§§ 5.4–5.6 [Reserved]

§ 5.7 Other TTB labeling regulations that apply to distilled spirits.

In addition to the regulations in this part, distilled spirits must also comply with the following TTB labeling regulations:

(a) *Health warning statement.* Alcoholic beverages, including distilled spirits, that contain at least 0.5 percent alcohol by volume, must be labeled with a health warning statement, in accordance with the Alcoholic Beverage Labeling Act of 1988 (ABLA). The regulations implementing the ABLA are contained in 27 CFR part 16.

(b) *Internal Revenue Code requirements.* The labeling and marking requirements for distilled spirits under the Internal Revenue Code are found in 27 CFR part 19, subpart T (for domestic products) and 27 CFR part 27, subpart E (for imported products).

§ 5.8 Distilled spirits for export.

The regulations in this part shall not apply to distilled spirits exported in bond.

§ 5.9 [Reserved]

§ 5.10 Other related regulations.

(a) *TTB regulations.* Other TTB regulations that relate to distilled spirits are listed in paragraphs (a)(1) through (8) of this section:

(1) 27 CFR part 1—Basic Permit Requirements under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits;

(2) 27 CFR part 13—Labeling Proceedings;

(3) 27 CFR part 16—Alcoholic Beverage Health Warning Statement;

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(4) 27 CFR part 19—Distilled Spirits Plants;

(5) 27 CFR Part 26—Liquors and Articles from Puerto Rico and the Virgin Islands;

(6) 27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer;

(7) 27 CFR Part 28—Exportation of Alcohol; and

(8) 27 CFR Part 71—Rules of Practice in Permit Proceedings.

(b) *Other Federal Regulations.* The regulations listed in paragraphs (b)(1) through (8) of this section issued by other Federal agencies also may apply:

(1) 7 CFR Part 205—National Organic Program;

(2) 19 CFR Part 11—Packing and Stamping; Marking;

(3) 19 CFR Part 102—Rules of Origin;

(4) 19 CFR Part 134—Country of Origin Marking;

(5) 21 CFR Part 1—General Enforcement Regulations, Subpart H, Registration of Food Facilities, and Subpart I, Prior Notice of Imported Food;

(6) 21 CFR Parts 70–82, which pertain to food and color additives;

(7) 21 CFR Part 110—Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food; and

(8) 21 CFR Parts 170–189, which pertain to food additives and secondary direct food additives.

§ 5.11 Forms.

(a) *General.* TTB prescribes and makes available all forms required by this part. Any person completing a form must provide all of the information required by each form as indicated by the headings on the form and the instructions for the form. Each form must be filed in accordance with this part and the instructions for the form.

(b) *Electronically filing forms.* The forms required by this part can be filed electronically by using TTB's online filing systems: COLAs Online and Formulas Online. Anyone who intends to use one of these online filing systems must first register to use the system by accessing the TTB website at <https://www.ttb.gov>.

(c) *Obtaining paper forms.* Forms required by this part are available for printing through the TTB website (<https://www.ttb.gov>) or by mailing a re-

quest to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 8002, Cincinnati, OH 45202.

§ 5.12 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to “appropriate TTB officers.” To find out which officers have been delegated specific authorities, see the current version of TTB Order 1135.5, Delegation of the Administrator's Authorities in 27 CFR part 5, Labeling and Advertising of Distilled Spirits. Copies of this order can be obtained by accessing the TTB website (<https://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 8002, Cincinnati, OH 45202.

Subpart B—Certificates of Label Approval and Certificates of Exemption from Label Approval

REQUIREMENTS FOR DISTILLED SPIRITS BOTTLED IN THE UNITED STATES

§ 5.21 Requirement for certificates of label approval (COLAs) for distilled spirits bottled in the United States.

(a) *Applicability.* The certificate of label approval (COLA) requirements described in this section apply to distilled spirits bottled in the United States, outside of customs custody.

(b) *Distilled spirits shipped or sold in interstate commerce.* No person may bottle distilled spirits without first applying for and obtaining a COLA issued by the appropriate TTB officer. This requirement applies to distilled spirits produced and bottled in the United States and to distilled spirits imported in bulk, regardless of where produced, and bottled in the United States. Bottlers may obtain an exemption from this requirement only if they satisfy the conditions set forth in § 5.23.

(c) *Evidence of COLA.* Upon request by the appropriate TTB officer, a bottler or importer must provide evidence that a container of distilled spirits is covered by a COLA. This requirement may be satisfied by providing

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original COLAs, photocopies or electronic copies of COLAs, or records showing the TTB identification number assigned to the approved certificate.

§ 5.22 Rules regarding certificates of label approval (COLAs) for distilled spirits bottled in the United States.

(a) *What a COLA authorizes.* An approved TTB Form 5100.31 authorizes the bottling of distilled spirits covered by the certificate of label approval (COLA), as long as the container bears labels identical to the labels appearing on the face of the COLA, or labels with changes authorized by TTB on the COLA or otherwise (such as through the issuance of public guidance available on the TTB website at <https://www.ttb.gov>).

(b) *When to obtain a COLA.* The COLA must be obtained prior to bottling. No bottler may bottle distilled spirits, or remove distilled spirits from the premises where bottled, unless a COLA has been obtained.

(c) *Application for a COLA.* The bottler may apply for a COLA by submitting an application to TTB on Form 5100.31, in accordance with the instructions on the form. The bottler may apply for a COLA either electronically by accessing TTB's online system, COLAs Online, at <https://www.ttb.gov>, or by submitting the paper form. For procedures regarding the issuance of COLAs, see part 13 of this chapter.

§ 5.23 Application for exemption from label approval for distilled spirits bottled in the United States.

(a) *Exemption.* Any bottler of distilled spirits may apply to be exempt from the requirements of §§ 5.21, 5.22, and 5.30(h), by showing to the satisfaction of the appropriate TTB officer that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce.

(b) *Application required.* The bottler must file an application on TTB Form 5100.31 for exemption from label approval before bottling the distilled spirits. The bottler may apply for a certificate of exemption from label approval either electronically, by accessing TTB's online system, COLAs On-

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line, at <https://www.ttb.gov>, or by using the paper form. For procedures regarding the issuance of certificates of exemption from label approval, see part 13 of this chapter.

(c) *Labeling of distilled spirits covered by certificate of exemption.* The application for a certificate of exemption from label approval requires that the applicant identify the State in which the product will be sold. As a condition of receiving exemption from label approval, the label covered by an approved certificate of exemption must include the statement "For sale in [name of State] only." See §§ 19.517 and 19.518 of this chapter for additional labeling rules that apply to distilled spirits covered by a certificate of exemption.

REQUIREMENTS FOR DISTILLED SPIRITS IMPORTED IN CONTAINERS

§ 5.24 Certificates of label approval (COLAs) for distilled spirits imported in containers.

(a) *Application requirement.* Any person removing distilled spirits in containers from customs custody for consumption must first apply for and obtain a certificate of label approval (COLA) covering the distilled spirits from the appropriate TTB officer, or obtain authorization to use the COLA from the person to whom the COLA is issued.

(b) *Release of distilled spirits from customs custody.* Distilled spirits, imported in containers, are not eligible for release from customs custody for consumption, and no person may remove such distilled spirits from customs custody for consumption, unless the person removing the distilled spirits has obtained a COLA covering the distilled spirits and is able to provide it (either electronically or on paper) upon request. 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.

(c) *Filing requirements.* 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 identification number of the valid COLA that corresponds to the label on the product or lot of distilled spirits to be imported. If the importer is not filing electronically, the importer must provide a copy of the COLA to CBP at the 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.

(d) *Evidence of COLA.* Upon request by the appropriate TTB officer, an importer must provide evidence that a container of distilled spirits is covered by a COLA. This requirement may be satisfied by providing original COLAs, photocopies or electronic copies of COLAs, or records showing the TTB identification number assigned to the approved certificate.

(e) *Scope of this section.* The COLA requirement imposed by this section applies only to distilled spirits that are removed for sale or any other commercial purpose. Distilled spirits that are imported in containers are not eligible for a certificate of exemption from label approval. See 27 CFR 27.49, 27.74, and 27.75 for labeling exemptions applicable to certain imported samples of distilled spirits.

(f) *Relabeling in customs custody.* Containers of distilled spirits in customs custody that are required to be covered by a COLA but are not labeled in conformity with a COLA must be relabeled, under the supervision and direction of customs officers, prior to their removal from customs custody for consumption.

§ 5.25 Rules regarding certificates of label approval (COLAs) for distilled spirits imported in containers.

(a) *What COLA authorizes.* An approved TTB Form 5100.31 authorizes the use of the labels covered by the certificate of label approval (COLA) on containers of distilled spirits, as long as the container bears labels identical to the labels appearing on the face of the COLA, or labels with changes au-

thorized by the form or otherwise authorized by TTB (such as through the issuance of public guidance available on the TTB website at <https://www.ttb.gov>).

(b) *When to obtain a COLA.* The COLA must be obtained prior to the removal of distilled spirits in containers from customs custody for consumption.

(c) *Application for a COLA.* The person responsible for the importation of distilled spirits must obtain approval of the labels by submitting an application to TTB on TTB Form 5100.31. A person may apply for a COLA either electronically, by accessing TTB's online system, COLAs Online, at <https://www.ttb.gov>, or by submitting the paper form. For procedures regarding the issuance of COLAs, see part 13 of this chapter.

ADMINISTRATIVE RULES

§ 5.27 Presenting certificates of label approval (COLAs) to Government officials.

A certificate holder must present the original or a paper or electronic copy of the appropriate certificate of label approval (COLA) upon the request of any duly authorized representative of the United States Government.

§ 5.28 Formulas, samples, and documentation.

(a) In addition to any formula specifically required under subpart J of this part, TTB may require formulas under certain circumstances in connection with the label approval process. Prior to or in conjunction with the review of an application for a certificate of label approval (COLA) on TTB Form 5100.31, the appropriate TTB officer may require a bottler or importer to submit a formula, the results of laboratory testing of the distilled spirits, or a sample of any distilled spirits or ingredients used in producing a distilled spirit. After the issuance of a COLA, or with regard to any distilled spirits required to be covered by a COLA, the appropriate TTB officer may require a full and accurate statement of the contents of the container.

(b) A formula may be filed electronically by using Formulas Online, or it may be submitted on paper on TTB

Form 5100.51. See § 5.11 for more information on forms and Formulas Online.

§ 5.29 Personalized labels.

(a) *General.* Applicants for label approval may obtain permission from TTB to make certain changes in order to personalize labels without having to resubmit labels for TTB approval. A personalized label is an alcohol beverage label that meets the minimum mandatory label requirements and is customized for customers. Personalized labels may contain a personal message, picture, or other artwork that is specific to the consumer who is purchasing the product. For example, a distiller may offer individual or corporate customers labels that commemorate an event such as a wedding or grand opening.

(b) *Application.* Any person who intends to offer personalized labels must submit a template for the personalized label as part of the application for label approval required under §§ 5.21 or 5.24, and must note on the application a description of the specific personalized information that may change.

(c) *Approval of personalized label.* If the application complies with the regulations, TTB will issue a certificate of label approval (COLA) with a qualification allowing the personalization of labels. The qualification will allow the certificate holder to add or change items on the personalized label such as salutations, names, graphics, artwork, congratulatory dates and names, or event dates without applying for a new COLA. All of these items on personalized labels must comply with the regulations of this part.

(d) *Changes not allowed to personalized labels.* Approval of an application to personalize labels does not authorize the addition of any information that discusses either the alcohol beverage or characteristics of the alcohol beverage or that is inconsistent with or in violation of the provisions of this part or any other applicable provision of law or regulations.

§ 5.30 Certificates of age and origin for imported spirits.

(a) *Scotch, Irish, and Canadian whiskies.* (1) Scotch, Irish, and Canadian whiskies, imported in containers, are

not eligible for release from customs custody for consumption, and no person may remove such whiskies 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 an official duly authorized by the appropriate foreign government, certifying:

(i) That the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be; and

(ii) That the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of whisky for home consumption.

(2) In addition, an official duly authorized by the appropriate foreign government must certify to the age of the youngest distilled spirits in the container. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(b) *Brandy and Cognac.* Brandy (other than fruit brandies of a type not customarily stored in oak containers) or Cognac, imported in containers, is not eligible for release from customs custody for consumption, and no person may remove such brandy or Cognac from customs custody for consumption, unless the person so removing the brandy or Cognac possesses a certificate issued by an official duly authorized by the appropriate foreign country certifying that the age of the youngest brandy or Cognac in the container is not less than 2 years, or if age is stated on the label that none of the distilled spirits are of an age less than that stated. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in another type of container, the brandy is not eligible for release from customs custody for consumption, and no person may remove such brandy from customs custody for consumption, unless the person so removing the brandy possesses a certificate issued by

an official duly authorized by the appropriate foreign government certifying to such storage. Cognac, imported in bottles, is not eligible for release from customs custody for consumption, and no person may remove such Cognac from customs custody for consumption, unless the person so removing the Cognac possesses a certificate issued by an official duly authorized by the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(c) *Rum*. Rum imported in containers that contain any statement of age is not eligible to be released from customs custody for consumption, and no person may remove such rum from customs custody for consumption, unless the person so removing the rum possesses a certificate issued by an official duly authorized by the appropriate foreign country, certifying to the age of the youngest rum in the container. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(d) *Tequila*. (1) Tequila imported in containers is not eligible for release from customs custody for consumption, and no person may remove such Tequila from customs custody for consumption, unless the person removing such Tequila possesses a Certificate of Tequila Export issued by an official duly authorized by the Mexican Government or a conformity assessment body stating that the product is entitled to be designated as Tequila under the applicable laws and regulations of the Mexican Government.

(2) If the label of any Tequila imported in containers contains any statement of age, the Tequila is not eligible for release from customs custody for consumption, and no person may remove such Tequila from customs custody for consumption, unless the person removing the Tequila possesses a Certificate of Tequila Export issued by an official duly authorized by the Mexican Government or a conformity assessment body as to the age of the youngest Tequila in the container. The age certified shall be the period during

which the Tequila has been stored in oak containers after distillation and before bottling.

(e) *Other whiskies*. Whisky, as defined in § 5.143(c)(2) through (7) and (10) through (14), imported in bottles, is not eligible for release from customs custody for consumption, and no person shall remove such whiskies from customs custody for consumption, unless that person has obtained and is in possession of a certificate issued by an official duly authorized by the appropriate foreign government certifying:

(1) In the case of whisky (regardless of whether it is mixed or blended) that contains no neutral spirits:

(i) The type of the whisky as defined in § 5.143;

(ii) The American proof at which the whisky was distilled;

(iii) That no neutral spirits (or other whisky in the case of straight whisky) have been added or otherwise included in the whisky;

(iv) The age of the whisky; and

(v) The type of oak barrel in which the whisky was aged and whether the barrel was new or reused, charred or uncharred; and

(2) In the case of whisky containing neutral spirits:

(i) The type of the whisky as defined in § 5.143;

(ii) The percentage of straight whisky used in the blend, if any;

(iii) The American proof at which any straight whisky in the blend was distilled;

(iv) The percentage of whisky other than straight whisky in the blend, if any;

(v) The percentage of neutral spirits in the blend and the name of the commodity from which the neutral spirits were distilled;

(vi) The age of any straight whisky and the age of any other whisky in the blend; and

(vii) The type of oak barrel in which the age of each whisky in the blend was attained and whether the barrel was new or reused and charred or uncharred.

(f) *Miscellaneous*. Distilled spirits (other than Scotch, Irish, and Canadian whiskies, and Cognac) imported in containers are not eligible for release from customs custody for consumption, and

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no person shall remove such spirits 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 an official duly authorized by the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits is required by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

(g) *Retention of certificates—distilled spirits imported in containers.* The importer of distilled spirits imported in containers must retain for 5 years following the removal of the bottled distilled spirits from customs custody copies of the certificates (and accompanying invoices, if applicable) required by paragraphs (a) through (f) of this section, and must provide them upon request of the appropriate TTB officer or a customs officer.

(h) *Distilled spirits imported in bulk for bottling in the United States.* Distilled spirits that would be required under paragraphs (a) through (f) of this section to be covered by a certificate of age and/or a certificate of origin and that are imported in bulk for bottling in the United States may be removed from the premises where bottled only if the bottler possesses a certificate of age and/or a certificate of origin, issued by the appropriate entity as set forth in paragraphs (a) through (f) of this section, applicable to the spirits that provides the same information as a certificate required under paragraphs (a) through (f) of this section, would provide for like spirits imported in bottles.

(i) *Retention of distilled spirits certificates—distilled spirits in bulk.* The bottler of distilled spirits imported in bulk must retain, for 5 years following the removal of such distilled spirits from the premises where bottled, copies of the certificates required by paragraphs (a) through (f) of this section, and must provide them upon request of the appropriate TTB officer.

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Subpart C—Alteration of Labels, Relabeling, and Adding Information to Containers

§ 5.41 Alteration of labels.

(a) *Prohibition.* It is unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label on distilled spirits in containers held for sale in interstate or foreign commerce, or held for sale after shipment in interstate or foreign commerce, except as authorized by §§ 5.42, 5.43, or 5.44, or as otherwise authorized by Federal law.

(b) *Authorized relabeling.* For purposes of the relabeling activities authorized by this subpart, the term “relabel” includes the alteration, mutilation, destruction, obliteration, or removal of any existing mark, brand, or label on the container, as well as the addition of a new label (such as a sticker that adds information about the product or information engraved on the container) to the container, and the replacement of a label with a new label bearing identical information.

(c) *Obligation to comply with other requirements.* Authorization to relabel under this subpart:

(1) In no way authorizes the placement of labels on containers that do not accurately reflect the brand, bottler, identity, or other characteristics of the product;

(2) Does not relieve the person conducting the relabeling operations from any obligation to comply with the regulations in this part and with State or local law; and,

(3) Does not relieve the person conducting the relabeling operations from any obligation to obtain permission from the owner of the brand where otherwise required.

§ 5.42 Authorized relabeling activities by distillers and importers.

(a) *Relabeling at distilled spirits plant premises.* A proprietor of distilled spirits plant premises may relabel domestically bottled distilled spirits prior to removal from, and after return to bond at, the distilled spirits plant premises, with labels covered by a certificate of label approval (COLA), without obtaining separate permission from TTB for the relabeling activity, provided that

the proprietor is the certificate holder (and bottler).

(b) *Relabeling after removal from distilled spirits plant premises.* A proprietor of distilled spirits plant premises may relabel domestically bottled distilled spirits (or direct the relabeling of such spirits by an authorized agent) after removal from distilled spirits plant premises with labels covered by a COLA, without obtaining separate permission from TTB for the relabeling activity, provided that the proprietor is the certificate holder (and bottler).

(c) *Relabeling in customs custody.* Under the supervision of U.S. customs officers, imported distilled spirits in containers in customs custody may be relabeled without obtaining separate permission from TTB for the relabeling activity. Such containers must bear labels covered by a COLA upon their removal from customs custody for consumption. See § 5.24(b).

(d) *Relabeling after removal from customs custody.* The importer of distilled spirits in containers may relabel imported distilled spirits (or direct the relabeling of such spirits by an authorized agent) after removal from customs custody without obtaining separate permission from TTB for the relabeling activity, as long as the labels are covered by a COLA.

§ 5.43 Relabeling activities that require separate written authorization from TTB.

(a) *General.* Any permittee holding distilled spirits for sale who needs to relabel the containers but is not the original bottler may apply for written permission for the relabeling of distilled spirits containers. The appropriate TTB officer may permit relabeling of distilled spirits in containers if the facts show that the relabeling is for the purpose of compliance with the requirements of this part or State law, or for the purpose of replacing damaged labels.

(b) *Application.* The written application must include:

- (1) Copies of the original and proposed new labels;
- (2) The circumstances of the request, including the reason for relabeling;
- (3) The number of containers to be relabeled;

(4) The location where the relabeling will take place; and

(5) The name and address of the person who will be conducting the relabeling operations.

§ 5.44 Adding a label or other information to a container that identifies the wholesaler, retailer, or consumer.

Any label or other information that identifies the wholesaler, retailer, or consumer of the distilled spirits may be added to containers (by the addition of stickers, engraving, stenciling, etc.) without prior approval from TTB and without being covered by a certificate of label approval or certificate of exemption from label approval. Such information may be added before or after the containers have been removed from distilled spirits plant premises or released from customs custody. The information added:

- (a) May not violate the provisions of subpart F, G, or H of this part;
- (b) May not contain any reference to the characteristics of the product; and
- (c) May not be added to the container in such a way that it obscures any other labels on the container.

Subpart D—Label Standards

§ 5.51 Requirement for firmly affixed labels.

Any label that is not an integral part of the container must be affixed to the container in such a way that it cannot be removed without thorough application of water or other solvents.

§ 5.52 Legibility and other requirements for mandatory information on labels.

(a) *Readily legible.* Mandatory information on labels must be readily legible to potential consumers under ordinary conditions.

(b) *Separate and apart.* Subject to the exceptions below, mandatory information on labels, except brand names, must be separate and apart from any additional information.

(1) This does not preclude the addition of brief optional phrases of additional information as part of the class or type designation (such as, “premium vodka” or “delicious Tequila”), the

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name and address statement (such as, “Proudly distilled and bottled by ABC Distilling Company, Atlanta, GA, for over 30 years”) or other information required by §5.63(a) and (b). The statements required by §5.63(c) may not include additional information.

(2) Mandatory information (other than an aspartame declaration required by §5.63(c)(8)) may be contained among other descriptive or explanatory information if the script, type, or printing of the mandatory information is substantially more conspicuous than that of the descriptive or explanatory information.

(c) *Contrasting background.* Mandatory information must appear in a color that contrasts with the background on which it appears, except that if the net contents are blown into a glass container, they need not be contrasting. The color of the container and of the distilled spirits must be taken into account if the label is transparent or if mandatory label information is etched, engraved, sandblasted, or otherwise carved into the surface of the container or is branded, stenciled, painted, printed, or otherwise directly applied on to the surface of the container. Examples of acceptable contrasts are:

(1) Black lettering appearing on a white or cream background; or

(2) White or cream lettering appearing on a black background.

(d) *Capitalization.* Except for the aspartame statement when required by §5.63(c)(8), which must appear in all capital letters, mandatory information prescribed by this part may appear in all capital letters, in all lower case letters, or in mixed-case using both capital and lower-case letters.

§5.53 Minimum type size of mandatory information.

All capital and lowercase letters in statements of mandatory information on labels must meet the following type size requirements.

(a) *Containers of more than 200 milliliters.* All mandatory information must be in script, type, or printing that is at least two millimeters in height.

(b) *Containers of 200 milliliters or less.* All mandatory information must be in

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script, type, or printing that is at least one millimeter in height.

§5.54 Visibility of mandatory information.

Mandatory information on a label must be readily visible and may not be covered or obscured in whole or in part. See §5.62 for rules regarding packaging of containers (including cartons, coverings, and cases). See subpart N of this part for regulations pertaining to advertising materials.

§5.55 Language requirements.

(a) *General.* Mandatory information must appear in the English language, with the exception of the brand name and except as provided in paragraph (c) of this section.

(b) *Foreign languages.* Additional statements in a foreign language, including translations of mandatory information that appears elsewhere in English on the label, are allowed on labels and containers as long as they do not in any way conflict with, or contradict, the requirements of this part.

(c) *Distilled spirits for consumption in the Commonwealth of Puerto Rico.* Mandatory information may be stated solely in the Spanish language on labels of distilled spirits bottled for consumption within the Commonwealth of Puerto Rico.

§5.56 Additional information.

Information (other than mandatory information) that is truthful, accurate, and specific, and that does not violate subparts F, G, or H of this part, may appear on labels. Such additional information may not conflict with, modify, qualify or restrict mandatory information in any manner.

Subpart E—Mandatory Label Information

§5.61 What constitutes a label for purposes of mandatory information.

(a) *Label.* Certain information, as outlined in §5.63, must appear on a label. When used in this part for purposes of determining where mandatory information must appear, the term “label” includes:

(1) Material affixed to the container, whether made of paper, plastic, metal, or other matter;

(2) For purposes of the net content statement only, information blown, embossed, or molded into the container as part of the process of manufacturing the container;

(3) Information etched, engraved, sandblasted, or otherwise carved into the surface of the container; and

(4) Information branded, stenciled, painted, printed, or otherwise directly applied on to the surface of the container.

(b) *Information appearing elsewhere on the container.* Information appearing on the following parts of the container is subject to all of the restrictions and prohibitions set forth in subparts F, G and H of this part, but will not satisfy any requirements in this part for mandatory information that must appear on labels:

(1) Material affixed to, or information appearing on, the bottom surface of the container;

(2) Caps, corks or other closures unless authorized to bear mandatory information by the appropriate TTB officer; and

(3) Foil or heat shrink bottle capsules.

(c) *Materials not firmly affixed to the container.* Any materials that accompany the container to the consumer but are not firmly affixed to the container, including booklets, leaflets, and hang tags, are not “labels” for purposes of this part. Such materials are instead subject to the advertising regulations in subpart N of this part.

§ 5.62 Packaging (cartons, coverings, and cases).

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), may not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited on labels by regulations in subpart F, G, or H of this part.

(b) *Sealed opaque cartons.* If containers are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than shipping containers), such coverings, car-

tons, or other containers must bear all mandatory label information.

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, *e.g.*, by “Brand” or “Product of U.S.A.”, must also display such modification.

(3) Specialty products for which a truthful and adequate statement of composition is required must display such statement.

(d) *Labeling of containers within the packaging.* The container within the packaging is subject to all labeling requirements of this part, including mandatory labeling information requirements, regardless of whether the packaging bears such information.

§ 5.63 Mandatory label information.

(a) *Mandatory information required to appear within the same field of vision.* Distilled spirits containers must bear a label or labels (as defined in § 5.61) containing the following information within the same field of vision (which means a single side of a container (for a cylindrical container, a side is 40 percent of the circumference) where all of the pieces of information can be viewed simultaneously without the need to turn the container):

(1) Brand name, in accordance with § 5.64;

(2) Class, type, or other designation, in accordance with subpart I of this part; and

(3) Alcohol content, in accordance with § 5.65.

(b) *Other mandatory information.* Distilled spirits containers must bear a label or labels (as defined in § 5.61) anywhere on the container bearing the following information:

(1) Name and address of the bottler or distiller, in accordance with § 5.66, or the importer, in accordance with § 5.67 or § 5.68, as applicable; and

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(2) Net contents (which may be blown, embossed, or molded into the container as part of the process of manufacturing the container), in accordance with § 5.70.

(c) *Disclosure of certain ingredients, processes and other information.* The following ingredients, processes, and other information must be disclosed on a label, without the inclusion of any additional information as part of the statement, as follows:

(1) *Neutral spirits.* The percentage of neutral spirits and the name of the commodity from which the neutral spirits were distilled, or in the case of continuously distilled neutral spirits or gin, the name of the commodity only, in accordance with § 5.71;

(2) *Coloring or treatment with wood.* Coloring or treatment with wood, in accordance with §§ 5.72 and 5.73;

(3) *Age.* A statement of age or age and percentage of type, when required or used, in accordance with § 5.74;

(4) *State of distillation.* State of distillation of any type of whisky defined in § 5.143(c)(2) through (c)(7), which is distilled in the United States, in accordance with § 5.66(f);

(5) *FD&C Yellow No. 5.* If a distilled spirit contains the coloring material FD&C Yellow No. 5, the label must include a statement to that effect, such as “FD&C Yellow No. 5” or “Contains FD&C Yellow No. 5”;

(6) *Cochineal extract or carmine.* If a distilled spirit contains the color additive cochineal extract or the color additive carmine, the label must include a statement to that effect, using the respective common or usual name (such as “contains cochineal extract” or “contains carmine”). This requirement applies to labels when either of the coloring materials was used in a distilled spirit that is removed from bottling premises or from customs custody on or after April 16, 2013;

(7) *Sulfites.* If a distilled spirit contains 10 or more parts per million of sulfur dioxide or other sulfiting agent measured as total sulfur dioxide, the label must include a statement to that effect. Examples of acceptable statements are “Contains sulfites” or “Contains (a) sulfiting agent(s)” or a statement identifying the specific sulfiting agent. The alternative terms

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“sulphites” or “sulphiting” may be used; and

(8) *Aspartame.* If the distilled spirit contains aspartame, the label must include the following statement, in capital letters, separate and apart from all other information: “PHENYLKETONURICS: CONTAINS PHENYLALANINE.”

(d) *Distinctive liquor bottles.* See § 5.205(b)(2) for exemption from placement requirements for certain mandatory information for distinctive liquor bottles.

§ 5.64 Brand name.

(a) *Requirement.* The distilled spirits label must include a brand name. If the distilled spirits are not sold under a brand name, then the name of the bottler, distiller or importer, as applicable, appearing in the name and address statement is treated as the brand name.

(b) *Misleading brand names.* Labels may not include any misleading brand names. A brand name is misleading if it creates (by itself or in association with other printed or graphic matter) any erroneous impression or inference as to the age, origin, identity, or other characteristics of the distilled spirits. A brand name that would otherwise be misleading may be qualified with the word “brand” or with some other qualification, if the appropriate TTB officer determines that the qualification dispels any misleading impression that might otherwise be created.

§ 5.65 Alcohol content.

(a) *General.* The alcohol content for distilled spirits must be stated on the label as a percentage of alcohol by volume. Products that contain a significant amount of material, such as solid fruit, that may absorb spirits after bottling must state the alcohol content at the time of bottling as follows: “Bottled at ___ percent alcohol by volume.”

(b) *How the alcohol content must be expressed.* The following rules apply to statements of alcohol content.

(1) A statement of alcohol content must be expressed as a percentage of alcohol by volume.

(i) In addition, the alcohol content in degrees of proof may be stated on a

label as long as it appears in the same field of vision as the mandatory statement of alcohol content as a percentage of alcohol by volume. Additional statements of proof may appear on the label without being in the same field of vision as the mandatory alcohol by volume statement.

(ii) Other truthful, accurate, and specific factual representations of alcohol content, such as alcohol by weight, may be made, as long as they appear together with, and as part of, the statement of alcohol content as a percentage of alcohol by volume.

(2)(i) The alcohol content statement must be expressed in one of the following formats:

(A) "Alcohol ____ percent by volume";

(B) "____ percent alcohol by volume"; or

(C) "Alcohol by volume ____ percent."

(ii) Any of the words or symbols may be enclosed in parentheses and authorized abbreviations may be used with or without a period. The alcohol content statement does not have to appear with quotation marks.

(3) The statements listed in paragraph (b)(2)(i) of this section must appear as shown, except that the following abbreviations may be used: Alcohol may be abbreviated as "alc"; percent may be represented by the percent symbol "%"; alcohol and volume may be separated by a slash "/" in lieu of the word "by"; and volume may be abbreviated as "vol".

(4) The following are examples of alcohol content statements that comply with the requirements of this part:

(i) "40% alc/vol";

(ii) "Alc. 40 percent by vol.";

(iii) "Alc 40% by vol"; and

(iv) "40% Alcohol by Volume."

(c) *Tolerances.* A tolerance of plus or minus 0.3 percentage points is allowed for actual alcohol content that is above or below the labeled alcohol content.

§ 5.66 Name and address for domestically bottled distilled spirits that were wholly made in the United States.

(a) *General.* Domestically bottled distilled spirits that were wholly made in the United States and contain no imported distilled spirits must be labeled

in accordance with this section. (See §§ 5.67 and 5.68 for name and address requirements applicable to distilled spirits that are not wholly made in the United States.) For purposes of this section, a "processor" who solely bottles the labeled distilled spirits will be considered the "bottler."

(b) *Form of statement.* The bottler, distiller, or processor of the distilled spirits must be identified by a phrase describing the function performed by that person. If that person performs more than one function, the label may (but is not required to) so indicate.

(1) If the name of the bottler appears on the label, it must be preceded by a phrase such as "bottled by," "canned by," "packed by," or "filled by," followed by the name and address of the bottler.

(2) If the name of the processor appears on the label, it must be preceded by a phrase such as "blended by," "made by," "prepared by," "produced by," or "manufactured by," as appropriate, followed by the name and address of the processor. When applied to distilled spirits, the term "produced by" indicates a processing operation (formerly known as rectification) that involves a change in the class or type of the product through the addition of flavors or some other processing activity.

(3) If the name of the distiller appears on the label, it must be preceded by a phrase such as "distilled by," followed by the name and address of the distiller. If the distilled spirits were bottled for the distiller thereof, the name and address of the distiller may be preceded by a phrase such as "distilled by and bottled for," or "bottled for."

(c) *Listing of more than one function.* If different functions are performed by more than one person, statements on the label may not create the misleading impression that the different functions were performed by the same person.

(d) *Form of address—(1) General.* The address consists of the city and State where the operation occurred, or the city and State of the principal place of business of the person performing the operation. This information must be consistent with the information on the

basic permit. Addresses may, but are not required to, include additional information such as street names, counties, zip codes, phone numbers, and website addresses. The postal abbreviation of the State name may be used; for example, California may be abbreviated as CA.

(2) *More than one address.* If the bottler, distiller, or processor listed on the name and address statement is the actual operator of more than one distilled spirits plant engaged in bottling, distilling, or processing operations, as applicable, the label may state, immediately following the name of the permittee, the addresses of those other plants, in addition to the address of the plant at which the distilled spirits were bottled. In this situation, the address where the operation occurred must be indicated on the label or on the container by printing, coding, or other markings.

(3) *Principal place of business.* The label may provide the address of the bottler's, distiller's, or processor's principal place of business, in lieu of the place where the bottling, distilling, or other operation occurred, provided that the address where the operation occurred is indicated on the label or on the container by printing, coding, or other markings.

(4) *Distilled spirits bottled for another person.* (i) If distilled spirits are bottled for another person, other than the actual distiller thereof, the label may state, in addition to (but not in place of) the name and address of the bottler, the name and address of such other person, immediately preceded by the words "bottled for" or another similar appropriate phrase. Such statements must clearly indicate the relationship between the two persons (for example, contract bottling).

(ii) If the same brand of distilled spirits is bottled by two distillers that are not under the same ownership, the label for each distiller may set forth both locations where bottling takes place, as long as the label uses the actual location (and not the principal place of business) and as long as the nature of the arrangement is clearly set forth.

(5) *Additional addresses.* No additional places or addresses may be stated for the same person unless:

(i) That person is actively engaged in the conduct of an additional bona fide and actual alcohol beverage business at such additional place or address, and

(ii) The label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product (such as "distilled by.")

(e) *Special rule for straight whiskies.* If "straight whiskies" (see § 5.143) of the same type are distilled in the same State by two or more different distillers and are combined (either at the time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," that "straight whisky" must bear a label that contains name and address information of the bottler. If that combined "straight whisky" is bottled by or for the distillers, in lieu of the name and address of the bottler, the label may contain the words "distilled by," followed immediately by the names (or trade names) and addresses of the different distillers who distilled a portion of the "straight whisky" and the percentage of "straight whisky" distilled by each distiller, with a tolerance of plus or minus 2 percent. If "straight whisky" consists of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and if that "straight whisky" is bottled by or for that proprietor, in lieu of the name and address of the bottler, the "straight whisky" may bear a label containing the words "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries that distilled a portion of the "straight whisky."

(f) *State of distillation for whisky.* (1) The State of distillation, which is the State in which original distillation takes place, must appear on the label of any type of whisky defined in § 5.143(c)(2) through (7), which is distilled in the United States. The State of distillation may appear on any label

and must be shown in at least one of the following ways:

(i) By including a “distilled by” (or “distilled and bottled by” or any other phrase including the word “distilled”) statement as part of the mandatory name and address statement, followed by a single location.

(ii) If the address shown in the “bottled by” statement includes the State in which distillation occurred, by including a “bottled by” statement as part of the mandatory name and address statement, followed by a single location;

(iii) By including the name of the State in which original distillation occurred immediately adjacent to the class or type designation (such as “Kentucky bourbon whisky”), as long as the product was both distilled and aged in that State in conformance with the requirements of § 5.143(b); or

(iv) By including a separate statement, such as “Distilled in [name of State].”

(2) The appropriate TTB officer may require that the State of distillation or other information appear on a label of any whisky subject to the requirements of paragraph (f)(1) of this section (and may prescribe placement requirements for such information), even if that State appears in the name and address statement, if such additional information is necessary to negate any misleading or deceptive impression that might otherwise be created as regards the actual State of distillation.

(3) In the case of “light whisky,” the State name “Kentucky” or “Tennessee” may not appear on any label, except as a part of a name and address as specified in paragraph (a)(1), (2), or (4) of this section.

(g) *Trade or operating names.* The name of the person appearing on the label may be the trade name or the operating name, as long as it is identical to a trade or operating name appearing on the basic permit. In the case of a distillation statement for spirits bottled in bond, the name or trade name under which the spirits were distilled must be shown.

§ 5.67 Name and address for domestically bottled distilled spirits that were bottled after importation.

(a) *General.* This section applies to distilled spirits that were bottled after importation. See § 5.68 for name and address requirements applicable to imported distilled spirits that were imported in a container. See 19 CFR parts 102 and 134 for U.S. Customs and Border Protection country of origin marking requirements.

(b) *Distilled spirits bottled after importation in the United States.* Distilled spirits bottled, without further blending, making, preparing, producing, manufacturing, or distilling activities after importation, must bear one of the following name and address statements:

(1) The name and address of the bottler, preceded by the words “bottled by,” “canned by,” “packed by,” or “filled by”;

(2) If the distilled spirits were bottled for the person responsible for the importation, the words “imported by and bottled (canned, packed, or filled) in the United States for” (or a similar appropriate phrase) followed by the name and address of the principal place of business in the United States of the person responsible for the importation;

(3) If the distilled spirits were bottled by the person responsible for the importation, the words “imported by and bottled (canned, packed, or filled) in the United States by” (or a similar appropriate phrase) followed by the name and address of the principal place of business in the United States of the person responsible for the importation.

(c) *Distilled spirits that were subject to blending or other production activities after importation.* Distilled spirits that, after importation in bulk, were blended, made, prepared, produced, manufactured or further distilled, may not bear an “imported by” statement on the label, but must instead be labeled in accordance with the rules set forth in § 5.66 for mandatory and optional labeling statements.

(d) *Optional statements.* In addition to the statements required by paragraph (a)(1) of this section, the label may also state the name and address of the principal place of business of the foreign producer.

(e) *Form of address.* (1) The address consists of the city and State where the operation occurred, or the city and State of the principal place of business of the person performing the operation. This information must be consistent with the information on the basic permit. Addresses may, but are not required to, include additional information such as street names, counties, zip codes, phone numbers, and website addresses.

(2) If the bottler or processor listed on the name and address statement is the actual operator of more than one distilled spirits plant engaged in bottling, distilling, or processing operations, as applicable, the label may state, immediately following the name of the bottler, the addresses of those other plants, in addition to the address of the plant at which the distilled spirits were bottled. In this situation, the address where the operation occurred must be indicated on the label or on the container by printing, coding, or other markings.

(3) The label may provide the address of the bottler's or processor's principal place of business, in lieu of the place where the bottling, distilling, or other operation occurred, provided that the address where the operation occurred is indicated on the label or on the container by printing, coding, or other markings.

(f) *Trade or operating names.* A trade name may be used if the trade name is listed on the basic permit or other qualifying documentation.

§ 5.68 Name and address for distilled spirits that were imported in a container.

(a) *General.* This section applies to distilled spirits that were imported in a container, as defined in § 5.1. See § 5.67 for name and address requirements applicable to distilled spirits that were domestically bottled after importation. See 19 CFR parts 102 and 134 for U.S. Customs and Border Protection country of origin marking requirements.

(b) *Mandatory labeling statement.* Distilled spirits imported in containers, as defined in § 5.1, must bear a label stating the words "imported by" or a similar appropriate phrase, followed by the name and address of the importer.

(1) For purposes of this section, the importer is the holder of the importer's basic permit who either makes the original customs entry or is the person for whom such entry is made, or the holder of the importer's basic permit who is the agent, distributor, or franchise holder for the particular brand of imported alcohol beverages and who places the order abroad.

(2) The address of the importer must be stated as the city and State of the principal place of business and must be consistent with the address reflected on the importer's basic permit. Addresses may, but are not required to, include additional information such as street names, counties, zip codes, phone numbers, and website addresses. The postal abbreviation of the State name may be used; for example, California may be abbreviated as CA.

(c) *Optional statements.* In addition to the statements required by paragraph (b)(1) of this section, the label may also state the name and address of the principal place of business of the foreign producer.

(d) *Form of address.* The "place" stated must be the city and State, shown on the basic permit or other qualifying document, of the premises at which the operations took place; and the place for each operation that is designated on the label must be shown.

(e) *Trade or operating names.* A trade name may be used if the trade name is listed on the basic permit or other qualifying documentation.

§ 5.69 Country of origin.

For U.S. Customs and Border Protection (CBP) rules regarding country of origin marking requirements, see the CBP regulations at 19 CFR parts 102 and 134.

§ 5.70 Net contents.

The requirements of this section apply to the net contents statement required by § 5.63.

(a) *General.* The volume of spirits in the container must appear on a label as a net contents statement. The word "liter" may be alternatively spelled "litre" or may be abbreviated as "L". The word "milliliters" may be abbreviated as "ml.," "mL.," or "ML." Net contents in equivalent U.S. customary

units of measurement and in metric equivalents such as centiliters may appear on a label and, if used, must appear in the same field of vision as the metric net contents statement.

(b) *Tolerances.* (1) The following tolerances are permissible for purposes of applying paragraph (a) of this section:

(i) *Errors in measuring.* Discrepancies due to errors in measuring that occur in filling conducted in compliance with good commercial practice;

(ii) *Differences in capacity.* Discrepancies due exclusively to differences in the capacity of containers, resulting solely from unavoidable difficulties in manufacturing the containers so as to be of uniform capacity, provided that the discrepancy does not result from a container design that prevents the manufacture of containers of an approximately uniform capacity; and

(iii) *Differences in atmospheric conditions.* Discrepancies in measure due to differences in atmospheric conditions in various places, including discrepancies resulting from the ordinary and customary exposure of alcohol beverage products in containers to evaporation, provided that the discrepancy is determined to be reasonable on a case by case basis.

(2) *Shortages and overages.* A contents shortage in certain of the containers in a shipment may not be counted against a contents overage in other containers in the same shipment for purposes of determining compliance with the requirements of this section.

§ 5.71 Neutral spirits and name of commodity.

(a) In the case of distilled spirits (other than cordials, liqueurs, flavored neutral spirits, including flavored vodka, and distilled spirits specialty products) manufactured by blending or other processing, if neutral spirits were used in the production of the spirits, the percentage of neutral spirits so used and the name of the commodity from which the neutral spirits were distilled must appear on a label. The statement of percentage and the name of the commodity must be in substantially the following form: “___ % neutral spirits distilled from ___ (insert grain, cane products, fruit, or other commodity as appropriate)”; or “___

% neutral spirits (vodka) distilled from ___ (insert grain, cane products, fruit, or other commodity as appropriate)”; or “___ % (grain) (cane products), (fruit) neutral spirits”, or “___ % grain spirits.”

(b) In the case of gin manufactured by a process of continuous distillation or in the case of neutral spirits, a label on the container must state the name of the commodity from which the gin or neutral spirits were distilled. The statement of the name of the commodity must appear in substantially the following form: “Distilled from grain” or “Distilled from cane products”.

§ 5.72 Coloring materials.

The words “artificially colored” must appear on a label of any distilled spirits product containing synthetic or natural materials that primarily contribute color, or when information on a label conveys the impression that a color was derived from a source other than the actual source of the color, except that:

(a) If no coloring material other than a color exempt from certification under FDA regulations has been added, a truthful statement of the source of the color may appear in lieu of the words “artificially colored,” for example, “Contains Beta Carotene” or “Colored with beet extract.” See 21 CFR parts 73 and 74 for the list of such colors under Food and Drug Administration (FDA) regulations;

(b) If no coloring material has been added other than one certified as suitable for use in foods by the FDA, the words “(to be filled in with name of) certified color added” or “Contains Certified Color” may appear in lieu of the words “artificially colored”; and

(c) If no coloring material other than caramel has been added, the words “colored with caramel,” “contains caramel color,” or another statement specifying the use of caramel color, may appear in lieu of the words “artificially colored.” However, no statement of any type is required for the use of caramel color in brandy, rum, or Tequila, or in any type of whisky other than straight whisky if used at not more than 2.5 percent by volume of the finished product.

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(d) As provided in §5.61, the use of FD&C Yellow No. 5, carmine, or cochineal extract must be specifically stated on the label even if the label also contains a phrase such as “contains certified color” or “artificially colored.”

§5.73 Treatment of whisky or brandy with wood.

The words “colored and flavored with wood____” (inserting “chips,” “slabs,” etc., as appropriate) must appear immediately adjacent to, and in the same size of type as, the class and type designation under subpart I of this part 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 an oak barrel. However, the statement specified in this section is not required in the case of brandy treated with an infusion of oak chips in accordance with §5.155(b)(3)(B).

§5.74 Statements of age, storage, and percentage.

(a) *General.* (1) As defined in §5.1, age is the length of time during which, after distillation and before bottling, the distilled spirits have been stored in oak barrels. For bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, aging must occur in charred new oak barrels.

(2) If an age statement is used, it is permissible to understate the age of a product, but overstatements of age are prohibited. However, the age statement may not conflict with the standard of identity, if aging is required as part of the standard of identity. For example, the standard of identity for straight rye whisky requires that the whisky be aged for a minimum of 2 years, so the age statement “Aged 1 year,” would be prohibited for a product designated as “straight” rye whisky, even if the spirits were actually aged for more than 2 years, because it is inconsistent with the standard of identity.

(3) The age may be stated in years, months, or days.

(b) *Age statements and percentage of type statements for whisky.* For all domestic or foreign whiskies that are aged less than 4 years, including blends

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containing a whisky that is aged less than 4 years, an age statement and percentage of types of whisky statement is required to appear on a label, unless the whisky is labeled as “bottled in bond” in conformity with §5.88. For all other whiskies, the statements are optional, but if used, they must conform to the formatting requirements listed below. Moreover, if the bottler chooses to include a statement of age or percentage on the label of a product that is 4 years old or more and that contains neutral spirits, the statement must appear immediately adjacent to the neutral spirits statement required by §5.70. The following are the allowable formats for the age and percentage statements for whisky:

(1)(i) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, the age of the youngest whisky in the product. The age statement must appear substantially as follows: “____ years old”; and

(ii) If a whisky is aged in more than one container, the label may optionally indicate the types of oak containers used.

(2) In the case of whisky containing neutral spirits, whether or not mixed or blended, if any straight whisky or other whisky in the product is less than 4 years old, the percentage by volume of each such whisky and the age of each such whisky (the age of the youngest of the straight whiskies or other whiskies if the product contains two or more of either). The age and percentage statement for a straight whisky and other whisky must appear immediately adjacent to the neutral spirits statement required by §5.70 and must read substantially as follows:

(i) If the product contains only one straight whisky and no other whisky: “____ percent straight whisky ____ years old;”

(ii) If the product contains more than one straight whisky but no other whisky: “____ percent straight whiskies ____ years or more old.” In this case the age blank must state the age of the youngest straight whisky in the product. However, in lieu of the foregoing statement, the following statement may appear on the label: “____ percent straight whisky ____ years old, ____ percent straight whisky ____ years old,

and ____ percent straight whisky ____ years old”;

(iii) If the product contains only one straight whisky and one other whisky: “____ percent straight whisky ____ years old, ____ percent whisky ____ years old”; or

(iv) If the product contains more than one straight whisky and more than one other whisky: “____ percent straight whiskies ____ years or more old, ____ percent whiskies ____ years or more old.” In this case, the age blanks must state the age of the youngest straight whisky and the age of the youngest other whisky. However, in lieu of the foregoing statement, the following statement may appear on the label: “____ percent straight whisky ____ years old, percent straight whisky ____ years old, ____ percent whisky ____ years old, and ____ percent whisky ____ years old”;

(3) In the case of an imported rye whisky, wheat whisky, malt whisky, or rye malt whisky, a label on the product must state each age and percentage in the manner and form that would be required if the whisky had been made in the United States;

(4) In the case of whisky made in the United States and stored in reused oak barrels, other than corn whisky and light whisky, in lieu of the words “____ years old” specified in paragraphs (b)(1) and (b)(2) of this section, the period of storage in the reused oak barrels must appear on the label as follows: “stored ____ years in reused cooperage.”

(c) *Statements of age for rum, brandy, and agave spirits.* A statement of age on labels of rums, brandies, and agave spirits is optional, except that, in the case of brandy (other than immature brandies, fruit brandies, marc brandy, pomace brandy, Pisco brandy, Singani brandy, and grappa brandy, which are not customarily stored in oak barrels) not stored in oak barrels for a period of at least two years, a statement of age must appear on the label. Any statement of age authorized or required under this paragraph must appear substantially as follows: “____ years old,” with the blank to be filled in with the age of the youngest distilled spirits in the product.

(d) *Statement of storage for grain spirits.* In the case of grain spirits, the period of storage in oak barrels may appear on a label immediately adjacent to the percentage statement required under § 5.73, for example: “____ % grain spirits stored ____ years in oak barrels.”

(e) *Other distilled spirits.* (1) Statements regarding age or maturity or similar statements or representations on labels for all other spirits, except neutral spirits, are permitted only when the distilled spirits are stored in an oak barrel and, once dumped from the barrel, subjected to no treatment besides mixing with water, filtering, and bottling. If batches are made from barrels of spirits of different ages, the label may only state the age of the youngest spirits.

(2) Statements regarding age or maturity or similar statements of neutral spirits (except for grain spirits as stated in paragraph (c) of this section) are prohibited from appearing on any label.

(f) *Other age representations.* (1) If a representation that is similar to an age or maturity statement permitted under this section appears on a label, a statement of age, in a manner that is conspicuous and in characters at least half the type size of the representation must also appear on each label that carries the representation, except in the following cases:

(i) The use of the word “old” or another word denoting age as part of the brand name of the product is not deemed to be an age representation that requires a statement of age; and

(ii) Labels of whiskies and brandies (other than immature brandies, pomace brandy, marc brandy, Pisco brandy, Singani brandy, and grappa brandy) not required to bear a statement of age, and rum and agave spirits aged for not less than four years, may contain general inconspicuous age, maturity or similar representations without the label having to bear an age statement.

(2) Distillation dates (which may be an exact date or a year) may appear on a label of spirits where the spirits are manufactured solely through distillation. A distillation date may only appear if an optional or mandatory age statement is used on the label and

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must appear in the same field of vision as the age statement.

[T.D. TTB–176, 87 7579, Feb. 9, 2022, as amended by T.D. TTB–187 88 FR 2227, Jan. 13, 2023]

Subpart F—Restricted Labeling Statements.

§ 5.81 General.

(a) *Application.* The labeling practices, statements, and representations in this subpart may be used on distilled spirits labels only when used in compliance with this subpart. In addition, if any of the practices, statements, or representations in this subpart are used elsewhere on containers or in packaging, they must comply with the requirements of this subpart. For purposes of this subpart:

(1) The term “label” includes all labels on distilled spirits containers on which mandatory information may appear, as set forth in § 5.61(a), as well as any other label on the container.

(2) The term “container” includes all parts of the distilled spirits container, including any part of a distilled spirits container on which mandatory information may appear, as well as those parts of the container on which information does not satisfy mandatory labeling requirements, as set forth in § 5.61(b).

(3) The term “packaging” includes any carton, case, carrier, individual covering or other packaging of such containers used for sale at retail, but does not include shipping cartons or cases that are not intended to accompany the container to the consumer.

(b) *Statement or representation.* For purposes of the practices in this subpart, the term “statement or representation” includes any statement, design, device, or representation, and includes pictorial or graphic designs or representations as well as written ones. The term “statement or representation” includes explicit and implicit statements and representations.

FOOD ALLERGEN LABELING

§ 5.82 Voluntary disclosure of major food allergens.

(a) *Definitions.* For purposes of this section, the following terms or phrases have the meanings indicated.

(1) *Major food allergen* means any of the following:

(i) Milk, egg, fish (for example, bass, flounder, or cod), Crustacean shellfish (for example, crab, lobster, or shrimp), tree nuts (for example, almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food specified in paragraph (a)(1)(i) of this section, except:

(A) Any highly refined oil derived from a food specified in paragraph (a)(1)(i) of this section and any ingredient derived from such highly refined oil; or

(B) A food ingredient that is exempt from major food allergen labeling requirements pursuant to a petition for exemption approved by the Food and Drug Administration (FDA) under 21 U.S.C. 343(w)(6) or pursuant to a notice submitted to FDA under 21 U.S.C. 343(w)(7), provided that the food ingredient meets the terms or conditions, if any, specified for that exemption.

(2) *Name of the food source from which each major food allergen is derived* means the name of the food as listed in paragraph (a)(1)(i) of this section, except that:

(i) In the case of a tree nut, it means the name of the specific type of nut (for example, almonds, pecans, or walnuts); and

(ii) In the case of Crustacean shellfish, it means the name of the species of Crustacean shellfish (for example, crab, lobster, or shrimp); and

(iii) The names “egg” and “peanuts,” as well as the names of the different types of tree nuts, may be expressed in either the singular or plural form, and the name “soy,” “soybean,” or “soya” may be used instead of “soybeans.”

(b) *Voluntary labeling standards.* Major food allergens used in the production of a distilled spirits product may, on a voluntary basis, be declared on any label affixed to the container. However, if any one major food allergen is voluntarily declared, all major food allergens used in production of the distilled spirits product, including major food allergens used as fining or processing agents, must be declared, except when covered by a petition for exemption approved by the appropriate

TTB officer under § 5.83. The major food allergens declaration must consist of the word “Contains” followed by a colon and the name of the food source from which each major food allergen is derived (for example, “Contains: egg”).

§ 5.83 Petitions for exemption from major food allergen labeling.

(a) *Submission of petition.* Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of § 5.82. The burden is on the petitioner to provide scientific evidence (as well as the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(2) Does not contain allergenic protein derived from one of the foods identified in § 5.82(a)(1)(i), even though a major food allergen was used in production.

(b) *Decision on petition.* TTB will approve or deny a petition for exemption submitted under paragraph (a) of this section in writing within 180 days of receipt of the petition. If TTB does not provide a written response to the petitioner within that 180-day period, the petition will be deemed denied, unless an extension of time for decision is mutually agreed upon by the appropriate TTB officer and the petitioner. TTB may confer with the Food and Drug Administration (FDA) on petitions for exemption, as appropriate and as FDA resources permit. TTB may require the submission of product samples and other additional information in support of a petition; however, unless required by TTB, the submission of samples or additional information by the petitioner after submission of the petition will be treated as the withdrawal of the initial petition and the submission of a new petition. An approval or denial under this section will constitute final agency action.

(c) *Resubmission of a petition.* After a petition for exemption is denied under this section, the petitioner may resubmit the petition along with supporting

materials for reconsideration at any time. TTB will treat this submission as a new petition.

(d) *Availability of information*—(1) *General.* TTB will promptly post to its website (<https://www.ttb.gov>) all petitions received under this section, as well as TTB’s responses to those petitions. Any information submitted in support of the petition that is not posted to the TTB website will be available to the public pursuant to the Freedom of Information Act, at 5 U.S.C. 552, except where a request for confidential treatment is granted under paragraph (d)(2) of this section.

(2) *Requests for confidential treatment of business information.* A person who provides trade secrets or other commercial or financial information in connection with a petition for exemption under this section may request that TTB give confidential treatment to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons why the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

PRODUCTION CLAIMS

§ 5.84 Use of the term “organic.”

Use of the term “organic” is permitted if any such use complies with United States Department of Agriculture (USDA) National Organic Program rules (7 CFR part 205), as interpreted by the USDA.

§ 5.85 [Reserved]**§ 5.86 [Reserved]**

OTHER LABEL TERMS

§ 5.87 “Barrel Proof” and similar terms.

(a) The term “barrel proof” or “cask strength” may be used to refer to distilled spirits stored in wood barrels only when the bottling proof is not more than two degrees lower than the proof of the spirits when the spirits are dumped from the barrels.

(b) The term “original proof,” “original barrel proof,” “original cask strength,” or “entry proof” may be used only if the distilled spirits were stored in wooden barrels and the proof of the spirits entered into the barrel and the proof of the bottled spirits are the same.

§ 5.88 Bottled in bond.

(a) The term “bond,” “bonded,” “bottled in bond,” or “aged in bond,” or phrases containing these or synonymous terms, may be used (including as part of the brand name) only if the distilled spirits are:

(1) Composed of the same kind (type, if one is applicable to the spirits, otherwise class) of spirits distilled from the same class of materials;

(2) Distilled in the same distilling season (as defined in § 5.1) by the same distiller at the same distillery.

(3) Stored for at least 4 years in wooden containers wherein the spirits have been in contact with the wood surface, except for vodka, which must be stored for at least 4 years in wooden containers coated or lined with paraffin or other substance which will preclude contact of the spirits with the wood surface, and except for gin, which must be stored in paraffin-lined or unlined wooden containers for at least 4 years;

(4) Unaltered from their original condition or character by the addition or subtraction of any substance other than by filtration, chill proofing, or other physical treatments (which do not involve the addition of any substance which will remain in the finished product or result in a change in class or type);

(5) Reduced in proof by the addition of only pure water to 50 percent alcohol by volume (100 degrees of proof); and

(6) Bottled at 50 percent alcohol by volume (100 degrees of proof).

(b) Imported spirits labeled as “bottled in bond” or other synonymous term described above must be manufactured in accordance with paragraphs (a)(1) through (6) of this section and may only be so labeled if the laws and regulations of the country in which the spirits are manufactured authorize the bottling of spirits in bond and require or specifically authorize such spirits to be so labeled. The “bottled in bond” or synonymous statement must be immediately followed, in the same font and type size, by the name of the country under whose laws and regulations such distilled spirits were so bottled.

(c) Domestically manufactured spirits labeled as “bottled in bond” or with some other synonymous statement must bear the real name of the distillery or the trade name under which the distiller distilled and warehoused the spirits, and the number of the distilled spirits plant in which distilled, and the number of the distilled spirits plant in which bottled. The label may also bear the name or trade name of the bottler.

§ 5.89 Multiple distillation claims.

(a) Truthful statements about the number of distillations, such as “double distilled,” “distilled three times,” or similar terms to convey multiple distillations, may be used if they are truthful statements of fact. For the purposes of this section only, the term “distillation” means a single run through a pot still or a single run through a column of a column (reflux) still. For example, if a column still has three separate columns, one complete additional run through the system would constitute three additional distillations.

(b) The number of distillations may be understated but may not be overstated.

§ 5.90 Terms related to Scotland.

(a) The words “Scotch,” “Scots,” “Highland,” or “Highlands,” and similar words connoting, indicating, or commonly associated with Scotland, may be used to designate only distilled spirits wholly manufactured in Scotland, except that the term “Scotch whisky” may appear in the designation for a flavored spirit (“Flavored Scotch Whisky”) or in a truthful statement of composition (“Scotch whisky with natural flavors”) where the base distilled spirit meets the requirements for a Scotch whisky designation, regardless of where the finished product is manufactured.

(b) In accordance with § 5.127, statements relating to government supervision may appear on Scotch whisky containers only if such labeling statements are required or specifically authorized by the applicable regulations of the United Kingdom.

§ 5.91 Use of the term “pure.”

Distilled spirits labels, containers, or packaging may not bear the word “pure” unless it:

(a) Refers to a particular ingredient used in the production of the distilled spirits, and is a truthful representation about that ingredient;

(b) Is part of the bona fide name of a permittee or retailer for which the distilled spirits are bottled; or

(c) Is part of the bona fide name of the permittee that bottled the distilled spirits.

Subpart G—Prohibited Labeling Practices

§ 5.101 General.

(a) *Application.* The prohibitions set forth in this subpart apply to any distilled spirits label, container, or packaging. For purposes of this subpart:

(1) The term “label” includes all labels on distilled spirits containers on which mandatory information may appear, as set forth in § 5.61(a), as well as any other label on the container;

(2) The term “container” includes all parts of the distilled spirits container,

including any part of a distilled spirits container on which mandatory information may appear, as well as those parts of the container on which information does not satisfy mandatory labeling requirements, as set forth in § 5.61(b); and

(3) The term “packaging” includes any carton, case, carrier, individual covering or other packaging of such containers used for sale at retail, but does not include shipping cartons or cases that are not intended to accompany the container to the consumer.

(b) *Statement or representation.* For purposes of the practices in this subpart, the term “statement or representation” includes any statement, design, device, or representation, and includes pictorial or graphic designs or representations as well as written ones. The term “statement or representation” includes explicit and implicit statements and representations.

§ 5.102 False or untrue statements.

Distilled spirits labels, containers, or packaging may not contain any statement or representation that is false or untrue in any particular.

§ 5.103 Obscene or indecent depictions.

Distilled spirits labels, containers, or packaging may not contain any statement, design, device, picture, or representation that is obscene or indecent.

Subpart H—Labeling Practices That Are Prohibited If They Are Misleading

§ 5.121 General.

(a) *Application.* The labeling practices that are prohibited if misleading set forth in this subpart apply to any distilled spirits label, container, or packaging. For purposes of this subpart:

(1) The term “label” includes all labels on distilled spirits containers on which mandatory information may appear, as set forth in § 5.61(a), as well as any other label on the container;

(2) The term “container” includes all parts of the distilled spirits container, including any part of a distilled spirits container on which mandatory information may appear, as well as those

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parts of the container on which information does not satisfy mandatory labeling requirements, as set forth in § 5.61(b); and

(3) The term “packaging” includes any carton, case, carrier, individual covering or other packaging of such containers used for sale at retail, but does not include shipping cartons or cases that are not intended to accompany the container to the consumer.

(b) *Statement or representation.* For purposes of this subpart, the term “statement or representation” includes any statement, design, device, or representation, and includes pictorial or graphic designs or representations as well as written ones. The term “statement or representation” includes explicit and implicit statements and representations.

§ 5.122 Misleading statements or representations.

(a) *General prohibition.* Distilled spirits labels, containers, or packaging may not contain any statement or representation, irrespective of falsity, that is misleading to consumers as to the age, origin, identity, or other characteristics of the distilled spirits, or with regard to any other material factor.

(b) *Ways in which statements or representations may be found to be misleading.* (1) A statement or representation is prohibited, irrespective of falsity, if it directly creates a misleading impression, or if it does so indirectly through ambiguity, omission, inference, or by the addition of irrelevant, scientific, or technical matter. For example, an otherwise truthful statement may be misleading because of the omission of material information, the disclosure of which is necessary to prevent the statement from being misleading.

(2) All claims, whether implicit or explicit, must have a reasonable basis in fact. Any claim on distilled spirits labels, containers, or packaging that does not have a reasonable basis in fact, or cannot be adequately substantiated upon the request of the appropriate TTB officer, is considered misleading.

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§ 5.123 Guarantees.

Distilled spirits labels, containers, or packaging may not contain any statement relating to guarantees if the appropriate TTB officer finds it is likely to mislead the consumer. However, money-back guarantees are not prohibited.

§ 5.124 Disparaging statements.

(a) *General.* Distilled spirits labels, containers, or packaging may not contain any false or misleading statement that explicitly or implicitly disparages a competitor’s product.

(b) *Truthful and accurate comparisons.* This section does not prevent truthful and accurate comparisons between products (such as, “Our liqueur contains more strawberries than Brand X”) or statements of opinion (such as, “We think our rum tastes better than any other distilled spirits on the market”).

§ 5.125 Tests or analyses.

Distilled spirits labels, containers, or packaging may not contain any statement or representation of or relating to analyses, standards, or tests, whether or not it is true, that is likely to mislead the consumer. An example of such a misleading statement is “tested and approved by our research laboratories” if the testing and approval does not in fact have any significance.

§ 5.126 Depictions of government symbols.

Representations of the armed forces and flags. Distilled spirits labels, containers, or packaging may not show an image of any government’s flag or any representation related to the armed forces of the United States if the representation, standing alone or considered together with any additional language or symbols on the label, creates a false or misleading impression that the product was endorsed by, made by, used by, or made under the supervision of, the government represented by that flag or by the armed forces of the United States. This section does not prohibit the use of a flag as part of a claim of American origin or another country of origin.

§§ 5.127–5.128 [Reserved]

§ 5.129 Health-related statements.

(a) *Definitions.* When used in this section, the following terms have the meaning indicated:

(1) *Health-related statement* means any statement related to health (other than the warning statement required under part 16 of this chapter) and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits product, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled spirits, as well as statements and claims of nutritional value (for example, statements of vitamin content).

(2) *Specific health claim* means a type of health-related statement that, expressly or by implication, characterizes the relationship of distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between alcohol, distilled spirits, or any substance found within the distilled spirits, and a disease or health-related condition.

(3) *Health-related directional statement* means a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(b) *Rules for labeling*—(1) *Health-related statements.* In general, distilled spirits may not contain any health-related statement that is untrue in any particular or tends to create a mis-

leading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement.

(2) *Specific health claims.* (i) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on the distilled spirits. If FDA determines that the use of such a labeling claim is a drug claim that is not in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, TTB will not approve the use of that specific health claim on the distilled spirits.

(ii) TTB will approve the use of a specific health claim on a distilled spirits label only if the claim is truthful and adequately substantiated by scientific or medical evidence; is sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health risks. This information must appear as part of the specific health claim.

(3) *Health-related directional statements.* A health-related directional statement is presumed misleading unless it:

(i) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(ii)(A) Includes as part of the health-related directional statement the following disclaimer: “This statement should not encourage you to drink or to increase your alcohol consumption for health reasons;” or

(B) Includes as part of the health-related directional statement some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

§5.130 Appearance of endorsement.

(a) *General.* Distilled spirits labels, containers, or packaging may not include the name, or the simulation or abbreviation of the name, of any living individual of public prominence, or an existing private or public organization, or any graphic, pictorial, or emblematic representation of the individual or organization, if its use is likely to lead a consumer to falsely believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization. This section does not prohibit the use of such names where the individual or organization has provided authorization for their use.

(b) *Disclaimers.* Statements or other representations do not violate this section if, taken as a whole, they create no misleading impression as to an implied endorsement either because of the context in which they are presented or because of the use of an adequate disclaimer.

(c) *Exception.* This section does not apply to the use of the name of any person engaged in business as a distiller, rectifier (processor), blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman of distilled spirits. This section also does not apply to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by the industry member or its predecessors in interest prior to August 29, 1935.

Subpart I—Standards of Identity for Distilled Spirits

§5.141 The standards of identity in general.

(a) *General.* Distilled spirits are divided, for labeling purposes, into classes, which are further divided into spe-

cific types. As set forth in §5.63, a distilled spirits product label must bear the appropriate class, type or other designation. The standards that define the classes and types are known as the “standards of identity.” The classes and types of distilled spirits set forth in this subpart apply only to distilled spirits for beverage or other nonindustrial purposes.

(b) *Rules.* (1) Unless otherwise specified, when a standard of identity states that a mash is of a particular ingredient (such as “fermented mash of grain”), the mash must be made entirely of that ingredient without the addition of other fermentable ingredients.

(2) Some distilled spirits products may conform to the standards of identity of more than one class. Such products may be designated with any single class designation defined in this subpart to which the products conform.

(c) *Designating with both class and type.* If a product is designated with both the class and the type, the type designation must be as conspicuous as the class designation, and must appear in the same field of vision.

(d) *Words in a designation.* All words in a designation must be similarly conspicuous and must appear together.

§5.142 Neutral spirits or alcohol.

(a) *The class neutral spirits.* “Neutral spirits” or “alcohol” are distilled spirits distilled from any suitable material at or above 95 percent alcohol by volume (190° proof), and, if bottled, bottled at not less than 40 percent alcohol by volume (80° proof). Neutral spirits other than the type “grain spirits” may be designated as “neutral spirits” or “alcohol” on a label. Neutral spirits (other than the type “grain spirits”) may not be aged in wood barrels at any time.

(b) *Types.* The following chart lists the types of neutral spirits and the rules that apply to the type designation.

Type designation	Standards
(1) Vodka	Neutral spirits which may be treated with up to two grams per liter of sugar and up to one gram per liter of citric acid. Products to be labeled as vodka may not be aged or stored in wood barrels at any time except when stored in paraffin-lined wood barrels and labeled as bottled in bond pursuant to § 5.88. Vodka treated and filtered with not less than one ounce of activated carbon or activated charcoal per 100 wine gallons of spirits may be labeled as "charcoal filtered." Addition of any other flavoring or blending materials changes the classification to flavored vodka or to a distilled spirits specialty product, as appropriate. Vodka must be designated on the label as "neutral spirits," "alcohol," or "vodka".
(2) Grain spirits	Neutral spirits distilled from a fermented mash of grain and stored in oak barrels. "Grain spirits" must be designated as such on the label. Grain spirits may not be designated as "neutral spirits" or "alcohol" on the label.

§ 5.143 Whisky.

(a) *The class whisky.* "Whisky" or "whiskey" is distilled spirits that is an alcoholic distillate from a fermented mash of any grain distilled at less than 95 percent alcohol by volume (190° proof) having the taste, aroma, and characteristics generally attributed to whisky, stored in oak barrels (except that corn whisky need not be so stored), and bottled at not less than 40 percent alcohol by volume (80° proof), and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(b) *Label designations.* The word whisky may be spelled as either "whisky" or "whiskey". The place, State, or region where the whisky was distilled may appear as part of the designation on the label if the distillation and any required aging took place in that location (e.g., "New York Bourbon Whisky" must be distilled and aged in the State of New York); however, blending and bottling need not have taken place in the same place, State, or region. However, if any whisky is made partially from whisky distilled in a country other than that indicated by the type designation, the label must indicate the percentage of such whisky and the country where that whisky was distilled. Additionally, the label of whisky that does not meet one of the standards for specific types of whisky and that is comprised of components distilled in more than one country must contain a statement of composition indicating the country of origin of each component (such as "Whisky—50% from Japan, 50% from the United States"). The word "bourbon" may not be used to describe any whisky or whisky-based distilled spirits not distilled

and aged in the United States. The whiskies defined in paragraphs (c)(2) through (6) and (10) through (14) of this section are distinctive products of the United States and must have the country of origin stated immediately adjacent to the type designation if it is distilled outside of the United States, or the whisky designation must be preceded by the term "American type" if the country of origin appears elsewhere on the label. For example, "Brazilian Corn Whisky," "Rye Whisky distilled in Sweden," and "Blended Whisky—Product of Japan" are statements that meet this country of origin requirement. "Light whisky", "Blended light whisky", and "Whisky distilled from bourbon (rye, wheat, malt, rye malt, or other named grain) mash" may only be produced in the United States.

(c) *Types of whisky.* The following tables set out the designations for whisky. Table 1 sets forth the standards for whisky that are defined based on production, storage, and processing standards, while Table 2 sets forth rules for the types of whisky that are defined as distinctive products of certain foreign countries. For the whiskies listed in Table 1, a domestic whisky may be labeled with the designation listed, when it complies with the production standards in the subsequent columns. The "source" column indicates the source of the grain mash used to make the whisky. The "distillation proof" indicates the allowable distillation proof for that type. The "storage" column indicates the type of packages (barrels) in which the spirits must be stored and limits for the proof of the spirits when entering the packages. The "neutral spirits permitted" column indicates whether neutral spirits may be used in the product in their original state (and

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not as vehicles for flavoring materials), and if so, how much may be used. The “harmless coloring, flavoring, blending materials permitted” column indicates whether harmless coloring, flavoring, or blending materials, other than neu-

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tral spirits in their original form, described in § 5.142, may be used in the product. The use of the word “straight” is a further designation of a type, and is optional.

TABLE 1 TO PARAGRAPH (c)—TYPES OF WHISKY AND PRODUCTION, STORAGE, AND PROCESSING STANDARDS

Type	Source	Distillation proof	Storage	Neutral spirits permitted	Allowable coloring, flavoring, blending materials permitted
(1) Whisky, which may be used as the designation for any of the type designations under the class "whisky," or may be used as the designation if the whisky does not meet one of the type designations but satisfies the class designation.	Fermented grain mash	Less than 190°	Oak barrels with no minimum time requirement.	No	Yes.
(2) Bourbon Whisky, Rye Whisky, Wheat Whisky, Malt Whisky, Rye Malt Whisky, or [name of other grain] Whisky.	Fermented mash of not less than 51%, respectively: Corn, Rye, Wheat, Malted Barley, Malted Rye Grain, [Other grain]. Fermented mash of not less than 80% corn.	160° or less	Charred new oak barrels at 125° or less.	No	Yes, except for bourbon whisky.
(3) Corn Whisky. (Whisky conforming to this standard must be designated as "corn whisky.").	Fermented mash of not less than 80% corn.	160° or less	Required only if age is claimed on the label. If stored, must be stored at 125° or less in used or uncharred new oak barrels.	No	Yes.
(4) Straight Whisky	Fermented mash of less than 51% corn, rye, wheat, malted barley, malted rye [or other] grain. (Includes mixtures of straight whiskies made in the same state.).	160° or less	Charred new oak barrels at 125° or less for a minimum of 2 years.	No	No.
(5) Straight Bourbon Whisky, Straight Rye Whisky, Straight Wheat Whisky, Straight Malt Whisky, or Straight Rye Malt Whisky.	Fermented mash of not less than 51%, respectively: Corn, Rye, Wheat, Malted Barley, Malted Rye Grain.	160° or less	Charred new oak barrels at 125° or less for a minimum of 2 years.	No	No.

TABLE 1 TO PARAGRAPH (c)—TYPES OF WHISKY AND PRODUCTION, STORAGE, AND PROCESSING STANDARDS—Continued

Type	Source	Distillation proof	Storage	Neutral spirits permitted	Allowable coloring, flavoring, blending materials permitted
(6) Straight Corn Whisky	Fermented mash of not less than 80% corn.	160° or less	125° or less in used or uncharred new oak barrels for a minimum of 2 years. Used oak barrels	No	No.
(7) Whisky distilled from Bourbon/Rye/Wheat/Malt/Rye Malt/ [Name of other grain] mash.	Fermented mash of not less than 51%, respectively: Corn, Rye, Wheat, Malted Barley, Malted Rye Grain, [Other grain].	160° or less		No	Yes.
(8) Light Whisky	Fermented grain mash	More than 160°	Used or uncharred new oak barrels. Will contain a blend.	No	Yes.
(9) Blended Light Whisky (Light Whisky—a blend).	Light whisky blended with less than 20% Straight Whisky on a proof gallon basis.	Blend		No	Yes.
(10) Blended Whisky (Whisky—a blend).	At least 20% Straight Whisky on a proof gallon basis plus Whisky or Neutral Spirits alone or in combination.	160° or less	Will contain a blend of spirits, some stored and some not stored.	Maximum of 80% on a proof gallon basis.	Yes.
(11) Blended Bourbon Whisky, Blended Rye Whisky, Blended Wheat Whisky, Blended Malt Whisky, Blended Rye Malt Whisky, Blended Corn Whisky (or Whisky—a blend).	At least 51% on a proof gallon basis of: Straight Bourbon, Rye, Wheat, Malt, Rye Malt, or Corn Whisky; the rest comprised of Whisky or Neutral Spirits alone or in combination.	Blend	Will contain a blend of spirits, some stored and some not stored.	Maximum of 49% on a proof gallon basis.	Yes.
(12) Blend of Straight Whiskies (Blended Straight Whiskies).	Mixture of Straight Whiskies that does not conform to "Straight Whisky".	160° or less	Will contain a blend of spirits which were aged at least 2 years.	No, except as part of a flavor.	Yes.

(13) Blended Straight Bourbon Whiskies, Blended Straight Rye Whiskies, Blended Straight Wheat Whiskies, Blended Straight Malt Whiskies, Blended Straight Rye Malt Whiskies, Blended Straight Corn Whiskies, (or a blend of straight whiskies).	(14) Spirit Whisky	Mixture of Straight Whiskies of the same named type produced in different states or produced in the same state but contains coloring, flavoring or blending material.	Mixture of Neutral Spirits and 5% or more on a proof gallon basis of: Whisky or Straight Whisky or a combination of both. The Straight Whisky component must be less than 20% on a proof gallon basis.	160° or less	Blend	Will contain a blend of spirits which were aged at least 2 years.	Will contain a blend of spirits, some stored and some not stored.	No, except as part of a flavor.	Maximum of 95% on a proof gallon basis.	Yes.	Yes.
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TABLE 2 TO PARAGRAPH (c)—TYPES OF WHISKY THAT ARE DISTINCTIVE PRODUCTS

(16) Scotch whisky	Whisky which is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom: <i>Provided</i> , That if such product is a mixture of whiskies, such mixture is “blended Scotch whisky” or “Scotch whisky—a blend”.
(17) Irish whisky	Whisky which is a distinctive product of Ireland, manufactured either in the Republic of Ireland or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption: <i>Provided</i> , That if such product is a mixture of whiskies, such mixture is “blended Irish whisky” or “Irish whisky—a blend”.
(18) Canadian whisky	Whisky which is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada: <i>Provided</i> , That if such product is a mixture of whiskies, such mixture is “blended Canadian whisky” or “Canadian whisky—a blend”.

§ 5.144 Gin.

(a) *The class gin.* “Gin” is distilled spirits made by original distillation from mash, or by redistillation of distilled spirits, or by mixing neutral spirits, with or over juniper berries and, optionally, with or over other aromatics, or with or over extracts derived from infusions, percolations, or maceration of such materials, and includes mixtures of gin and neutral spirits. It must derive its main characteristic flavor from juniper berries and be bottled at not less than 40 percent alcohol by volume (80° proof). Gin may be aged in oak containers.

(b) *Distilled gin.* Gin made exclusively by original distillation or by redistillation may be further designated as “distilled,” “Dry,” “London,” “Old Tom” or some combination of these four terms.

§ 5.145 Brandy.

(a) *The class brandy.* “Brandy” is spirits that are distilled from the fermented juice, mash, or wine of fruit, or from the residue thereof, distilled at less than 95 percent alcohol by volume (190° proof) having the taste, aroma,

and characteristics generally attributed to the product, and bottled at not less than 40 percent alcohol by volume (80° proof).

(b) *Label designations.* Brandy conforming to one of the type designations must be designated with the type name or specific designation specified in the requirements for that type. The term “brandy” without further qualification (such as “peach” or “marc”) may only be used as a designation on labels of grape brandy as defined in paragraph (c)(1) of this section. Brandy conforming to one of the type designations defined in paragraphs (c)(1) through (13) of this section must be designated on the label with the type name unless a specific designation is included in the requirements for that type. Brandy, or mixtures thereof, not conforming to any of the types defined in this section must be designated on the label as “brandy” followed immediately by a truthful and adequate statement of composition.

(c) *Types.* Paragraphs (c)(1) through (13) of this section set out the types of brandy and the standards for each type.

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Type	Standards
(1) Fruit brandy	Brandy distilled solely from the fermented juice or mash of whole, sound, ripe fruit, or from standard grape or other fruit wine, with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation). Fruit brandy includes mixtures of such brandy with not more than 30 percent (calculated on a proof gallon basis) of lees brandy. Fruit brandy derived solely from grapes and stored for at least 2 years in oak containers must be designated "grape brandy" or "brandy." Grape brandy that has been stored in oak barrels for fewer than 2 years must be designated "immature grape brandy" or "immature brandy." Fruit brandy, other than grape brandy, derived from one variety of fruit, must be designated by the word "brandy" qualified by the name of such fruit (for example, "peach brandy"), except that "apple brandy" may be designated "applejack," "plum brandy" may be designated "Slivovitz," and "cherry brandy" may be designated "Kirschwasser." Fruit brandy derived from more than one variety of fruit must be designated as "fruit brandy" qualified by a truthful and adequate statement of composition, for example "Fruit brandy distilled from strawberries and blueberries."
(2) Cognac or "Cognac (grape) brandy"	Grape brandy distilled exclusively in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French government.
(3) Armagnac	Grape brandy distilled exclusively in France in accordance with the laws and regulations of France regulating the manufacture of Armagnac for consumption in France.
(4) Brandy de Jerez	Grape brandy distilled exclusively in Spain in accordance with the laws and regulations of Spain regulating the manufacture of Brandy de Jerez for consumption in Spain.
(5) Calvados	Apple brandy distilled exclusively in France in accordance with the laws and regulations of France regulating the manufacture of Calvados for consumption in France.
(6) Pisco	Grape brandy distilled in Peru or Chile in accordance with the laws and regulations of the country of manufacture of Pisco for consumption in the country of manufacture, including: <ul style="list-style-type: none"> (i) "Pisco Perú" (or "Pisco Peru"), which is Pisco manufactured in Peru in accordance with the laws and regulations of Peru governing the manufacture of Pisco for consumption in that country; and (ii) "Pisco Chileno" (or "Chilean Pisco"), which is Pisco manufactured in Chile in accordance with the laws and regulations of Chile governing the manufacture of Pisco for consumption in that country.
(7) Singani	Brandy derived from grape/s that is manufactured in Bolivia in accordance with the laws and regulations of Bolivia governing the manufacture of Singani for consumption in that country.
(8) Dried fruit brandy	Brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, must be designated "raisin brandy." Dried fruit brandy, other than raisin brandy, must be designated by the word "brandy" qualified by the name of the dried fruit(s) from which made preceded by the word "dried", for example, "dried apricot brandy."
(9) Lees brandy	Brandy distilled from the lees of standard grape or other fruit wine, and such brandy derived solely from grapes must be designated "grape lees brandy" or "lees brandy." Lees brandy derived from fruit other than grapes must be designated as "lees brandy," qualified by the name of the fruit from which such lees are derived, for example, "cherry lees brandy."
(10) Pomace brandy or Marc brandy	Brandy distilled from the skin and pulp of sound, ripe grapes or other fruit, after the withdrawal of the juice or wine therefrom. Such brandy derived solely from grape components must be designated "grape pomace brandy," "grape marc brandy", "pomace brandy," or "mark brandy." Grape pomace brandy may alternatively be designated as "grappa" or "grappa brandy." Pomace or marc brandy derived from fruit other than grapes must be designated as "pomace brandy" or "marc brandy" qualified by the name of the fruit from which derived, for example, "apple pomace brandy" or "pear marc brandy."
(11) Residue brandy	Brandy distilled wholly or in part from the fermented residue of fruit or wine. Such brandy derived solely from grapes must be designated "grape residue brandy," or "residue brandy." Residue brandy, derived from fruit other than grapes, must be designated as "residue brandy" qualified by the name of the fruit from which derived, for example, "orange residue brandy." Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in paragraphs (b)(1) and (7) through (9) of this section may, regardless of such fact, be designated "residue brandy", but the use of such designation shall be conclusive, precluding any later change of designation.
(12) Neutral brandy	Any type of brandy distilled at more than 85% alcohol by volume (170° proof) but less than 95% alcohol by volume. Such brandy derived solely from grapes must be designated "grape neutral brandy," or "neutral brandy." Other neutral brandies, must be designated in accordance with the rules for those types of brandy, and be qualified by the word "neutral"; for example, "neutral citrus residue brandy".

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Type	Standards
(13) Substandard brandy	Any brandy: (i) Distilled from fermented juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20 degrees Celsius); measurements of volatile acidity must be calculated exclusive of water added to facilitate distillation. (ii) Distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material. (iii) Such brandy derived solely from grapes must be designated “substandard grape brandy,” or “substandard brandy.” Other substandard brandies must be designated in accordance with the rules for those types of brandy, and be qualified by the word “substandard”; for example, “substandard fig brandy”.

[T.D. TTB-176, 87 7579, Feb. 9, 2022, as amended by T.D. TTB-187, 88 FR 2228, Jan. 13, 2023]

§ 5.146 Blended applejack.

(a) *The class blended applejack.* “Blended applejack” is a mixture containing at least 20 percent on a proof gallon basis of apple brandy (applejack) that has been stored in oak barrels for not less than 2 years, and not more than 80 percent of neutral spirits on a proof gallon basis. Blended applejack must be bottled at not less than 40 percent alcohol by volume (80° proof).

(b) *Label designation.* The label designation for blended applejack may be “blended applejack” or “applejack—a blend.”

§ 5.147 Rum.

(a) *The class rum.* “Rum” is distilled spirits that is distilled from the fermented juice of sugar cane, sugar cane syrup, sugar cane molasses, or other sugar cane by-products at less than 95 percent alcohol by volume (190° proof) having the taste, aroma, and characteristics generally attributed to rum, and bottled at not less than 40 percent alcohol by volume (80° proof); and also includes mixtures solely of such spirits. All rum may be designated as “rum” on the label, even if it also meets the standards for a specific type of rum.

(b) *Types.* Paragraph (b)(1) of this section describes a specific type of rum and the standards for that type.

Type	Standards
(1) Cachaça	Rum that is a distinctive product of Brazil, manufactured in Brazil in compliance with the laws of Brazil regulating the manufacture of Cachaça for consumption in that country. The word “Cachaça” may be spelled with or without the diacritic mark (i.e., “Cachaça” or “Cachaca”). Cachaça may be designated as “Cachaça” or “rum” on labels.
(2) [Reserved]	

§ 5.148 Agave spirits.

(a) *The class agave spirits.* “Agave spirits” are distilled from a fermented mash, of which at least 51 percent is derived from plant species in the genus Agave and up to 49 percent is derived from other sugars. Agave spirits must be distilled at less than 95 percent alcohol by volume (190° proof) and bottled at or above 40 percent alcohol by volume (80° proof). Agave spirits may be

stored in wood barrels. Agave spirits may contain added flavoring or coloring materials as authorized by § 5.155. This class also includes mixtures of agave spirits. Agave spirits that meet the standard of identity for “Tequila” or “Mezcal” may be designated as “agave spirits,” or as “Tequila” or “Mezcal”, as applicable.

(b) *Types.* Paragraphs (b)(1) and (2) of this section describe the types of agave spirits and the rules for each type.

Type	Standards
(1) Tequila	An agave spirit that is a distinctive product of Mexico. Tequila must be made in Mexico, in compliance with the laws and regulations of Mexico governing the manufacture of Tequila for consumption in that country.

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Type	Standards
(2) Mezcal	An agave spirit that is a distinctive product of Mexico. Mezcal must be made in Mexico, in compliance with the laws and regulations of Mexico governing the manufacture of Mezcal for consumption in that country.

§ 5.149 [Reserved]

§ 5.150 Cordials and liqueurs.

(a) *The class cordials and liqueurs.* Cordials and liqueurs are flavored distilled spirits that are made by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolation, or maceration of such materials, and containing sugar (such as sucrose, fructose, dextrose, or levulose) in an amount of not less than 2.5 percent by

weight of the finished product. Designations on labels may be “Cordial” or “Liqueur,” or, in the alternative, may be one of the type designations below. Cordials and liqueurs may not be designated as “straight”. The designation of a cordial or liqueur may include the word “dry” if sugar is less than 10 percent by weight of the finished product.

(b) *Types.* Paragraph (b)(1) through (12) of this section list definitions and standards for optional type designations.

Type	Rule
(1) Sloe gin	A cordial or liqueur with the main characteristic flavor derived from sloe berries.
(2) Rye liqueur, bourbon liqueur (or rye cordial or bourbon cordial).	Liqueurs, bottled at not less than 30 percent alcohol by volume, in which not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2.5 percent limitation provided in § 5.155 for coloring, flavoring, and blending materials.
(3) Rock and rye; Rock and bourbon; Rock and brandy; Rock and rum.	Liqueurs, bottled at not less than 24 percent alcohol by volume, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum, respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices, or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy, or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2.5 percent limitation provided in § 5.155 for harmless coloring, flavoring, and blending materials.
(4) Rum liqueur, gin liqueur, brandy liqueur.	Liqueurs, bottled at not less than 30 percent alcohol by volume, in which the distilled spirits used are entirely rum, gin, or brandy, respectively, and which possess, respectively, a predominant characteristic rum, gin, or brandy flavor derived from the distilled spirits used. In the case of brandy liqueur, the type of brandy must be stated in accordance with paragraph (d) of this section, except that liqueurs made entirely with grape brandy may be designated simply as “brandy liqueur.” Wine, if used, must be within the 2.5 percent limitation provided for in § 5.155 for harmless coloring, flavoring, and blending materials.
(5) Amaretto	Almond flavored liqueur/cordial
(6) Kummel	Caraway flavored liqueur/cordial
(7) Ouzo, Anise, Anisette	Anise flavored liqueurs/cordials
(8) Sambuca	Anise flavored liqueur. See § 5.154(b)(2) for designation rules for Sambuca not produced in Italy.
(9) Peppermint Schnapps	Peppermint flavored liqueur/cordial
(10) Triple Sec and Curacao	Orange flavored liqueurs/cordials. Curacao may be preceded by the color of the liqueur/cordial (for example, Blue Curacao).
(11) Crème de	A liqueur/cordial where the blank is filled in with the predominant flavor (for example, Crème de menthe is mint flavored liqueur/cordial.)
(12) Goldwasser	Herb flavored liqueur/cordial and containing gold flakes. See § 5.154(b)(2) for designation rules for Goldwasser not made in Germany.

§ 5.151 Flavored spirits.

(a) *The class flavored spirits.* “Flavored spirits” are distilled spirits that

are spirits conforming to one of the standards of identity set forth in §§ 5.142 through 5.148, to which have

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been added nonbeverage natural flavors, wine, or nonalcoholic natural flavoring materials, with or without the addition of sugar, and bottled at not less than 30 percent alcohol by volume (60° proof). The flavored spirits must be specifically designated by the single base spirit and one or more of the most predominant flavors (for example, “Pineapple Flavored Tequila” or “Cherry Vanilla Flavored Bourbon Whisky”). The base spirit must conform to the standard of identity for that spirit before the flavoring is added. Base spirits that are a distinctive product of a particular place must be manufactured in accordance with the laws and regulations of the country as designated in the base spirit’s standard of identity. If the finished product contains more than 2.5 percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation (whether the wine is added directly to the product or whether it is first mixed into an intermediate product), except that a flavored brandy may contain an additional 12.5 percent by volume of wine, without label disclosure, if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

(b) [Reserved]

§ 5.152 Imitations.

(a) Imitations must bear, as a part of the designation thereof, the word “imitation” and include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits specialty products as defined in § 5.156) to which has been added flavors considered to be artificial or imitation.

(3) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate or imply that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence, or similar essence or extract which simu-

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lates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(4) Any type of whisky to which beading oil has been added;

(5) Any rum to which neutral spirits or distilled spirits other than rum have been added;

(6) Any brandy made from distilling material to which has been added any amount of sugar other than the kind and amount of sugar expressly authorized in the production of standard wine; and

(7) Any brandy to which neutral spirits or distilled spirits other than brandy have been added, except that this provision shall not apply to any product conforming to the standard of identity for blended applejack.

(b) If any of the standards set forth in paragraphs (a)(1) through (7) of this section apply, the “Imitation” class designation must be used in front of the appropriate class as part of the designation (for example, Imitation Whisky).

§ 5.153 [Reserved]

§ 5.154 Rules for geographical designations.

(a) *Geographical designations.* (1) Geographical names for distinctive types of distilled spirits (other than names found by the appropriate TTB officer under paragraph (a)(2) of this section to have become generic) may not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless:

(i) There appears the word “type” or the word “American” or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name; and

(ii) The distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzic (Danziger Goldwasser), Ojen, Swedish punch. Geographical names for distinctive types of distilled spirits may be used to designate only distilled spirits

conforming to the standard of identity, if any, for such type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type.

(2) Only such geographical names for distilled spirits as the appropriate TTB officer finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples are London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Armagnac, Greek brandy, Jamaica rum, Puerto Rico rum, Demerara rum and Andong Soju.

(b) *Products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraphs (c)(2) through (6) and (10) through (14) of § 5.143 are distinctive products of the United States and if produced in a foreign country shall be designated by the applicable designation prescribed in such paragraphs, together with the words “American type” or the words “produced (distilled, blended) in _____”, the blank to be filled in with the name of the foreign country: *Provided*, That the word “bourbon” shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country (such as Habanero), may not be given to the product of any other place or country unless the designation for such product includes the word “type” or an adjective such as “American”, or the like, clearly indicating the true place of production. The provision for place of production shall not apply to designations

which by usage and common knowledge have lost their geographical significance to such an extent that the appropriate TTB officer finds they have become generic. Examples of generic designations are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

§ 5.155 Alteration of class and type.

(a) *Definitions*—(1) *Coloring, flavoring, or blending material.* For the purposes of this section, the term “coloring, flavoring, or blending material” means a harmless substance that is an essential component of the class or type of distilled spirits to which it is added; or a harmless substance, such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, infusion of oak chips when approved by the Administrator, or wine, that is not an essential component part of the distilled spirits product to which it is added but which is customarily employed in the product in accordance with established trade usage.

(2) *Certified color.* For purposes of this section, the term “certified color” means a color additive that is required to undergo batch certification in accordance with part 74 or part 82 of the Food and Drug Administration regulations (21 CFR parts 74 and 82). An example of a certified color is FD&C Blue No. 2.

(b) *Allowable additions.* Except as provided in paragraph (c) of this section, the following may be added to distilled spirits without changing the class or type designation:

(1) Coloring, flavoring, and blending materials that are essential components of the class or type of distilled spirits to which added;

(2) Coloring, flavoring, and blending materials that are not essential component parts of the distilled spirits to which added, provided that such coloring, flavoring, or blending materials do not total more than 2.5 percent by volume of the finished product; and

(3) Wine, when added to Canadian whisky in Canada in accordance with the laws and regulations of Canada governing the manufacture of Canadian whisky.

(c) *Special rules.* The addition of the following will require a redesignation

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of the class or type of the distilled spirits product to which added:

(1) Coloring, flavoring, or blending materials that are not essential component parts of the class or type of distilled spirits to which they are added, if such coloring, flavoring, and blending materials total more than 2.5 percent by volume of the finished product;

(2) Any material, other than caramel, infusion of oak chips, and sugar, added to Cognac brandy;

(3) Any material whatsoever added to neutral spirits or straight whisky, except that vodka may be treated with sugar, in an amount not to exceed two grams per liter, and with citric acid, in an amount not to exceed one gram per liter;

(4) Certified colors, carmine, or cochineal extract;

(5) Any material that would render the product to which it is added an imitation, as defined in § 5.152; or

(6) For products that are required to be stored in oak barrels in accordance with a standard of identity, the storing of the product in an additional barrel made of another type of wood.

(d) *Extractions from distilled spirits.* The removal of any constituents from a distilled spirits product to such an extent that the product no longer possesses the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits will alter the class or type of the product, and the resulting product must be redesignated appropriately. In addition, in the case of straight whisky, the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or the removal of more than 25 percent of the soluble color, constitutes an alteration of the class or type of the product and requires a redesignation of the product.

(e) *Exceptions.* Nothing in this section has the effect of modifying the standards of identity specified in § 5.150 for cordials and liqueurs, and in § 5.151 for flavored spirits, or of authorizing any product defined in § 5.152 to be designated as other than an imitation.

§ 5.156 Distilled spirits specialty products.

(a) *General.* Distilled spirits that do not meet one of the other standards of

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identity specified in this subpart are distilled spirits specialty products and must be designated in accordance with trade and consumer understanding, or, if no such understanding exists, with a distinctive or fanciful name (which may be the name of a cocktail) appearing in the same field of vision as a statement of composition. The statement of composition and the distinctive or fanciful name serve as the class and type designation for these products. The statement of composition must follow the rules found in § 5.166. A product may not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(b) *Products designated in accordance with trade and consumer understanding.* Products may be designated in accordance with trade and consumer understanding without a statement of composition if the appropriate TTB officer has determined that there is such understanding.

§§ 5.157–5.165 [Reserved]

§ 5.166 Statements of composition.

(a) *Rules for the statement of composition.* When a statement of composition is required as part of a designation for a distilled spirits specialty product, the statement must be truthful and adequate.

(b) *Cocktails.* A statement of the classes and types of distilled spirits used in the manufacture thereof will be deemed a sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

Subpart J—Formulas

§ 5.191 Application.

The requirements of this subpart apply to the following persons:

(a) Proprietors of distilled spirits plants qualified as processors under part 19 of this chapter;

(b) Persons in the Commonwealth of Puerto Rico who manufacture distilled spirits products for shipment to the United States. However, the filing of a

formula for approval by TTB is only required for those products that will be shipped to the United States; and

(c) Persons who ship Virgin Islands distilled spirits products into the United States.

§ 5.192 Formula requirements.

(a) *General.* An approved formula is required to blend, mix, purify, refine, compound, or treat distilled spirits in a manner that results in a change of class or type of the spirits.

(b) *Preparation and submission.* In order to obtain formula approval, a person listed in § 5.191 must file a formula in accordance with the instructions on TTB Form 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages (if filing by paper) or on Formulas Online, if filing electronically. When a product will be made or processed under the same formula at more than one location operated by the distiller or processor, the distiller or processor must identify on the form each place of production or processing by name and address, and by permit number, if applicable, and must ensure that a copy of the approved formula is maintained at each location.

(c) *Existing approvals.* Any approval of a formula will remain in effect until revoked, superseded, or voluntarily surrendered, and if the formula is revoked, superseded, or voluntarily surrendered, any existing qualifying statements on such approval as to the rate of tax or the limited use of alcoholic flavors will be made obsolete.

(d) *Change in formula.* Any change in an approved formula requires the filing of a new TTB Form 5100.51 for approval of the changed formula. After a changed formula is approved, the filer must surrender the original formula approval to the appropriate TTB officer.

§ 5.193 Operations requiring formulas.

The following operations change the class or type of distilled spirits and therefore require formula approval under § 5.192: *Provided*, That, TTB may exempt categories of distilled spirits products from specific regulatory formula requirements upon a finding that the filing of a formula is no longer nec-

essary in order to properly classify the finished product:

(a) The compounding of distilled spirits through the mixing of a distilled spirits product with any coloring or flavoring material, wine, or other material containing distilled spirits, unless TTB has issued public guidance recognizing that such ingredients are harmless coloring, flavoring or blending materials that do not alter the class or type pursuant to the standards set forth in § 5.155;

(b) The manufacture of an intermediate product to be used exclusively in other distilled spirits products on bonded premises;

(c) Any filtering or stabilizing process that results in a distilled spirits product's no longer possessing the taste, aroma, and characteristics generally attributed to the class or type of distilled spirits before the filtering or stabilizing, or, in the case of straight whisky, that results in the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or more than 25 percent of the soluble color;

(d) The mingling of spirits that differ in class or in type of materials from which made;

(e) The mingling of distilled spirits that were stored in charred cooperage with distilled spirits that were stored in plain or reused cooperage, or the mixing of distilled spirits that have been treated with wood chips with distilled spirits not so treated, or the mixing of distilled spirits that have been subjected to any treatment which changes their character with distilled spirits not subjected to such treatment, unless it is determined by the appropriate TTB officer in each of these cases that the composition of the distilled spirits is the same notwithstanding the storage in different kinds of cooperage or the treatment of a portion of the spirits;

(f) Except when authorized for production or storage operations by part 19 of this chapter, the use of any physical or chemical process or any apparatus that accelerates the maturing of the distilled spirits;

(g) The steeping or soaking of plant materials, such as fruits, berries, aromatic herbs, roots, or seeds, in distilled

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spirits or wines at a distilled spirits plant;

(h) The artificial carbonating of distilled spirits;

(i) In Puerto Rico, the blending of distilled spirits with any liquors manufactured outside Puerto Rico;

(j) The production of gin by:

(1) Redistillation, over juniper berries and other natural aromatics or over the extracted oils of such materials, of spirits distilled at or above 190 degrees of proof that are free from impurities, including such spirits recovered by redistillation of imperfect gin spirits; or

(2) Mixing gin with other distilled spirits;

(k) The treatment of gin by:

(1) The addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation; or

(2) The addition of any substance or material other than juniper berries or other natural aromatics or the extracted oils of such materials, or the addition of pure water, before or during redistillation, in a manner that would change its class and type designation; and

(l) The recovery of spirits by redistillation from distilled spirits products containing other alcoholic ingredients and from spirits that have previously been entered for deposit. However, no formula approval is required for spirits redistilled into any type of neutral spirits other than vodka or for spirits redistilled at less than 190 degrees of proof that lack the taste, aroma and other characteristics generally attributed to whisky, brandy, rum, or gin and that are designated as "Spirits" preceded or followed by a word or phrase descriptive of the material from which distilled. Such spirits may not be designated "Spirits Grain" or "Grain Spirits" on any label.

§5.194 Adoption of predecessor's formulas.

A successor to a person listed in §5.191 may adopt a predecessor's approved formulas by filing an application with the appropriate TTB officer. The application must include a list of the formulas for adoption and must

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identify each formula by formula number, name of product, and date of approval. The application must clearly show that the predecessor has authorized the use of the previously approved formulas by the successor.

Subpart K—Standards of Fill and Authorized Container Sizes.

§5.201 General.

No person engaged in business as a distiller, rectifier (processor), importer, wholesaler, bottler, or warehouseman and bottler, directly or indirectly, or through an affiliate, may sell or ship or deliver for sale or shipment in interstate or foreign commerce, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody for consumption, any distilled spirits in containers, unless the distilled spirits are bottled in conformity with §§5.202 and 5.203.

§5.202 Standard liquor containers.

(a) *General.* Except as provided in paragraph (d) of this section and in §5.205, distilled spirits must be bottled in standard liquor containers, as defined in this paragraph. A standard liquor container is a container that is made, formed, and filled in such a way that it does not mislead purchasers as regards its contents. An individual carton or other container of a bottle may not be so designed as to mislead purchasers as to the size of the bottle it contains.

(b) *Headspace.* A filled liquor container of a capacity of 200 milliliters (6.8 fl. oz.) or more is deemed to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the container after closure.

(c) *Design.* Regardless of the correctness of the stated net contents, a liquor container is deemed to mislead the purchaser if it is made and formed in such a way that its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

(d) *Exception for distinctive liquor bottles.* The provisions of paragraphs (b) and (c) of this section do not apply to liquor bottles for which a distinctive

liquor bottle approval has been issued pursuant to § 5.205.

§ 5.203 Standards of fill (container sizes).

(a) *Authorized standards of fill.* The following metric standards of fill are authorized for distilled spirits, whether domestically bottled or imported:

(1) *Containers other than cans.* For containers other than cans described in paragraph (a)(2) of this section—

- (i) 1.8 Liters.
- (ii) 1.75 Liters.
- (iii) 1.00 Liter.
- (iv) 900 mL.
- (v) 750 mL.
- (vi) 720 mL.
- (vii) 700 mL.
- (viii) 375 mL.
- (ix) 200 mL.
- (x) 100 mL.
- (xi) 50 mL.

(2) *Metal cans.* For metal containers that have the general shape and design of a can, that have a closure that is an integral part of the container, and that cannot be readily reclosed after opening—

- (i) 355 mL.
- (ii) 200 mL.
- (iii) 100 mL.
- (iv) 50 mL.

(b) *Spirits bottled using outdated standards.* Paragraph (a) of this section does not apply to:

(1) Imported distilled spirits in the original containers in which entered into customs custody prior to January 1, 1980 (or prior to July 1, 1989 in the case of distilled spirits imported in 500 mL containers); or

(2) Imported distilled spirits bottled or packed prior to January 1, 1980 (or prior to July 1, 1989 in the case of distilled spirits in 500 mL containers) and certified as to such in a statement signed by an official duly authorized by the appropriate foreign government.

[T.D. TTB-176, 87 7579, Feb. 9, 2022, as amended by 87 FR 13157, Mar. 9, 2022]

§ 5.204 [Reserved]

§ 5.205 Distinctive liquor bottle approval.

(a) *General.* A bottler or importer of distilled spirits in distinctive liquor bottles may apply for a distinctive liq-

uor bottle approval from the appropriate TTB officer. The distinctive liquor bottle approval will provide an exemption only from those requirements that are specified in paragraph (b) of this section. A distinctive liquor bottle is a container that is not the customary shape and that may obscure the net contents of the distilled spirits.

(b) *Exemptions provided by the distinctive liquor bottle approval.* The distinctive liquor bottle approval issued pursuant to this section will provide that:

(1) The provisions of § 5.202(b) and (c) do not apply to the liquor containers for which the distinctive liquor bottle approval has been issued; and

(2) The information required to appear in the same field of vision pursuant to § 5.63(a) may appear elsewhere on a distinctive liquor bottle for which the distinctive liquor bottle approval has been issued, if the design of the container precludes the presentation of all mandatory information in the same field of vision.

(c) *How to apply.* A bottler or importer of distilled spirits in distinctive liquor bottles may apply for a distinctive liquor bottle approval as part of the application for a certificate of label approval (COLA).

Subpart L [Reserved]

§ 5.211 [Reserved]

§ 5.212 [Reserved]

Subpart M—Penalties and Compromise of Liability

§ 5.221 Criminal penalties.

A violation of the labeling provisions of 27 U.S.C. 205(e) is punishable as a misdemeanor. See 27 U.S.C. 207 for the statutory provisions relating to criminal penalties, consent decrees, and injunctions.

§ 5.222 Conditions of basic permit.

A basic permit is conditioned upon compliance with the requirements of 27 U.S.C. 205, including the labeling and advertising provisions of this part. A willful violation of the conditions of a basic permit provides grounds for the revocation or suspension of the permit,

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as applicable, as set forth in part 1 of this chapter.

§ 5.223 Compromise.

Pursuant to 27 U.S.C. 207, the appropriate TTB officer is authorized, with respect to any violation of 27 U.S.C. 205, to compromise the liability arising with respect to such violation upon payment of a sum not in excess of \$500 for each offense, to be collected by the appropriate TTB officer and to be paid into the Treasury as miscellaneous receipts.

Subpart N—Advertising of Distilled Spirits

§ 5.231 Application.

No person engaged in business as a distiller, rectifier (processor), importer, wholesaler, bottler, or warehouseman and bottler of distilled spirits, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio or television broadcast, or in any newspaper, periodical, or any publication, by any sign or outdoor advertisement, or by electronic or internet media, or any other printed or graphic matter, any advertisement of distilled spirits, if such advertising is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with this subpart: *Provided*, That such sections shall not apply to outdoor advertising in place on September 7, 1984, but shall apply upon replacement, restoration, or renovation of any such advertising; *and provided further*, that such sections shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television or internet broadcast, unless such retailer or publisher or broadcaster is engaged in business as a distiller, rectifier (processor), importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

§ 5.232 Definition.

As used in this subpart, the term “advertisement” “or advertising” includes any written or verbal statement, illustration, or depiction which

is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, internet or other electronic site or social network, or in any written, printed, graphic, or other matter (such as hang tags) accompanying, but not firmly affixed to, the bottle, representations made on shipping cases or in any billboard, sign, other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle which constitute a part of the labeling under this part.

(b) Any editorial or other reading material (such as a news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration or thing of value is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

§ 5.233 Mandatory statements.

(a) *Responsible advertiser*. The advertisement must display the responsible advertiser’s name, city, and State or the name and other contact information (such as, telephone number, website, or email address) where the responsible advertiser may be contacted.

(b) *Class and type*. The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcohol content*—(1) *Mandatory statement*. The alcohol content for distilled spirits must be stated as a percentage of alcohol by volume, in the manner set forth in § 5.65 of this chapter for labels. Products that contain a significant amount of material, such as solid fruit, that may absorb spirits after bottling must state the alcohol

content at the time of bottling as follows: “Bottled at ____ percent-alcohol-by-volume.”

(2) *Optional statement.* In addition, the advertisement may also state the alcohol content in degrees of proof if this information appears in the same field of vision as the statement expressed in percent-alcohol-by-volume.

(d) *Percentage of neutral spirits and name of commodity.*

(1) In the case of distilled spirits (other than cordials, liqueurs, flavored neutral spirits, including flavored vodka, and distilled spirits specialty products) 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, or other products as appropriate)”; or “____% neutral spirits (vodka) distilled from ____ (insert grain, cane product, fruit, or other commodity, as appropriate)”; or “____% grain (cane products), (fruit) neutral spirits”; or “____% grain spirits”. The statement used under this paragraph must be identical to that on the label of distilled spirits to which the advertisement refers.

(2) In the case of gin manufactured by a process of continuous distillation or in the case of neutral spirits, there shall be stated the name of the commodity from which such gin or neutral spirits were 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.” The statement used under this paragraph must be identical to that on the label of distilled spirits to which the advertisement refers.

(e) *Exception.* (1) If an advertisement refers to a general distilled spirits line or all of the distilled spirits products of one company, whether by the company name or by the brand name common to all the distilled spirits in the line, the only mandatory information necessary is the responsible advertiser’s name,

city, and State or the name and other contact information (such as telephone number, website, or email address) where the responsible advertiser may be contacted. This exception does not apply where only one type of distilled spirits is marketed under the specific brand name advertised.

(2) On consumer specialty items (such as T-shirts, hats, bumper stickers, or refrigerator magnets), the only information necessary is the company name of the responsible advertiser or brand name of the product.

§ 5.234 Legibility of mandatory information.

(a) Statements required under this subpart to appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address or name and other contact information (such as, telephone number, website, or email) of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(d) Mandatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audiovisual media that it will be readily apparent to the persons viewing the advertisement.

§ 5.235 Prohibited practices.

(a) *Restrictions.* An advertisement of distilled spirits shall not contain:

(1) Any statement that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression.

(2) Any false or misleading statement that explicitly or implicitly disparages

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a competitor's product. This does not prevent truthful and accurate comparisons between products (such as, "Our liqueur contains more strawberries than Brand X") or statements of opinion (such as, "We think our rum tastes better than any other distilled spirits on the market").

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to § 5.88, on labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are permitted to appear on the label.

(7) The word "pure" unless:

(i) It refers to a particular ingredient used in the production of the distilled spirits, and is a truthful representation about the ingredient; or

(ii) It is part of the bona fide name of a permittee or retailer from whom the distilled spirits are bottled; or

(iii) It is part of the bona fide name of the permittee who bottled the distilled spirits.

(8) The words "double distilled" or "triple distilled" or any similar terms unless it is a truthful statement of fact. For purposes of this paragraph only, a distillation means a single run through a pot still or a single run through a column of a column (reflux) still. The number of distillations may be understated but may not be overstated.

(b) *Statements inconsistent with labeling.* (1) Advertisements shall not contain any statement concerning a brand or lot of distilled spirits that is incon-

sistent with any statement on the labeling thereof.

(2) Any label depicted on a container in an advertisement shall be a reproduction of an approved label.

(c) *Statement of age.* The advertisement shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of § 5.74. An advertisement for any whisky or brandy (except immature brandies, pomace brandy, marc brandy, Pisco brandy, Singani brandy, and grappa brandy) which is not required to bear a statement of age on the label or an advertisement for any rum or agave spirits, which has been aged for not less than 4 years may, however, contain inconspicuous, general representations as to age, maturity or other similar representations even though a specific age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) *Health-related statements*—(1) *Definitions.* When used in this paragraph (d), terms are defined as follows:

(i) *Health-related statement* means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, and health benefits or effects on health. The term includes both specific health claims and general references to alleged health benefits or effects on health associated with the consumption of alcohol, distilled spirits, or any substance found within the distilled spirits, as well as health-related directional statements. The term also includes statements and claims that imply that a physical or psychological sensation results from consuming the distilled

spirits, as well as statements and claims of nutritional value (*e.g.*, statements of vitamin content). Statements concerning caloric, carbohydrate, protein, and fat content do not constitute nutritional claims about the product.

(ii) *Specific health claim* is a type of health-related statement that, expressly or by implication, characterizes the relationship of the distilled spirits, alcohol, or any substance found within the distilled spirits, to a disease or health-related condition. Implied specific health claims include statements, symbols, vignettes, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between distilled spirits, alcohol, or any substance found within the distilled spirits, and a disease or health-related condition.

(iii) *Health-related directional statement* is a type of health-related statement that directs or refers consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption.

(2) *Rules for advertising*—(i) *Health-related statements*. In general, advertisements may not contain any health-related statement that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption. TTB will evaluate such statements on a case-by-case basis and may require as part of the health-related statement a disclaimer or some other qualifying statement to dispel any misleading impression conveyed by the health-related statement. Such disclaimer or other qualifying statement must appear as prominent as the health-related statement.

(ii) *Specific health claims*. A specific health claim will not be considered misleading if it is truthful and adequately substantiated by scientific or medical evidence; sufficiently detailed and qualified with respect to the categories of individuals to whom the claim applies; adequately discloses the health risks associated with both moderate and heavier levels of alcohol consumption; and outlines the categories of individuals for whom any levels of alcohol consumption may cause health

risks. This information must appear as part of the specific health claim and in a manner as prominent as the specific health claim.

(iii) *Health-related directional statements*. A statement that directs consumers to a third party or other source for information regarding the effects on health of distilled spirits or alcohol consumption is presumed misleading unless it—

(A) Directs consumers in a neutral or other non-misleading manner to a third party or other source for balanced information regarding the effects on health of distilled spirits or alcohol consumption; and

(B)(1) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, the following disclaimer: “This statement should not encourage you to drink or increase your alcohol consumption for health reasons;” or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(e) *Place of origin*. The advertisement shall not represent that the distilled spirits were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(f) *Confusion of brands*. Two or more different brands or lots of distilled spirits shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provisions of this subpart or are in any respect untrue.

(g) *Representations of the armed forces or flags*. Advertisements may not show an image of any government’s flag or

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any representation related to the armed forces of the United States if the representation, standing alone or considered together with any additional language or symbols, creates a false or misleading impression that the product was endorsed by, made by, used by, or made under the supervision of, the government represented by that flag or by the armed forces of the United States. This section does not prohibit the use of a flag as part of a claim of American origin or another country of origin.

(h) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. “Subliminal or similar techniques,” as used in this subpart, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

(i) Any use of the term “organic” in the advertising of distilled spirits must comply with the United States Department of Agriculture’s (USDA) National Organic Program rules, 7 CFR part 205, as interpreted by the USDA.

T.D. TTB-176, 87 7579, Feb. 9, 2022, as amended by T. D. TTB-187, 88 FR 2228, Jan. 13, 2023]

§ 5.236 Comparative advertising.

(a) *General.* Comparative advertising shall not be disparaging of a competitor’s product in a manner that is false or misleading.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors’ products unless they are disparaging in a false or misleading manner; deceptive; or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the Manual on Sensory Testing Methods, ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68-15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

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Subpart O—Paperwork Reduction Act

§ 5.241 OMB control numbers assigned under the Paperwork Reduction Act.

(a) *Purpose.* This subpart displays the control numbers assigned to information collection requirements in this part by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, Public Law 104–13.

(b) *Table.* The following table identifies each section in this part that contains an information collection requirement and the OMB control number that is assigned to that information collection requirement.

TABLE 1 TO PARAGRAPH (b)

Section where contained	Current OMB control No.
5.11	1513–0111
5.21	1513–0020
5.22	1513–0020
5.23	1513–0020
5.24	1513–0020
5.25	1513–0064
5.27	1513–0020
5.28	1513–0020
5.29	1513–0122
5.30	1513–0020
5.62	1513–0064
5.63	1513–0087
5.82	1513–0084
5.83	1513–0087
5.84	1513–0121
5.87	1513–0121
5.88	1513–0087
5.89	1513–0087
5.90	1513–0087
5.91	1513–0087
5.192	1513–0087
5.193	1513–0122
5.194	1513–0122
5.203	1513–0064
5.205	1513–0020
5.233	1513–0087

PART 6—“TIED-HOUSE”

Subpart A—Scope of Regulations

Sec.

- 6.1 General.
- 6.2 Territorial extent.
- 6.3 Application.
- 6.4 Jurisdictional limits.
- 6.5 Delegations of the Administrator.
- 6.6 Administrative provisions.