

Julien, Sancerre, Santenay, Saumur, Savigny or Savigny-les-Beaunes, Tavel, Touraine, Volnay, Vosne-Romanee, Vouvray.

(c) *Italy*: Asti Spumante, Barbaresco, Barbera d'Alba, Barbera d'Asti, Bardolino, Barolo, Brunello di Montalcino, Dolcetto d'Alba, Frascati, Gattinara, Lacryma Christi, Nebbiolo d'Alba, Orvieto, Soave, Valpolicella, Vino Nobile de Montepulciano.

(d) *Portugal*: Dao, Oporto, Porto, or Vinho do Porto.

(e) *Spain*: Lagrima, Rioja.

PART 13—LABELING PROCEEDINGS

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AUTHORITY: 27 U.S.C. 205(e), 26 U.S.C. 5301 and 7805.

SOURCE: T.D. ATF-406, 64 FR 2129, Jan. 13, 1999, unless otherwise noted.

Subpart A—Scope and Construction of Regulations

§ 13.1 Scope of part.

The regulations in this part govern the procedure and practice in connection with the issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals under 27 U.S.C. 205(e) and 26 U.S.C. 5301. The regulations in this part also provide for appeal procedures when applications for label approval, exemptions from label approval, or distinctive liquor bottle approvals are denied, when such applications are approved with qualifications, or when these applications are approved and then subsequently revoked.

Subpart B—Definitions

§ 13.11 Meaning of terms.

Where used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated that are in the same general class.

Act. The Federal Alcohol Administration Act.

Applicant. The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an unapproved ATF F 5100.31, application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

Assistant Director, Alcohol and Tobacco. The ATF official responsible for deciding an appeal of a revocation of a certificate of label approval, a certificate of exemption from label approval, or a distinctive liquor bottle approval, under this part.

ATF. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC 20226.

Brewer. Any person who brews beer (except a person who produces only beer exempt from tax under 26 U.S.C. 5053(e)) and any person who produces beer for sale.

Certificate holder. The permittee or brewer whose name, address, and basic permit number, or plant registry number, appears on an approved ATF F 5100.31, certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

Certificate of exemption from label approval. A certificate issued on ATF F 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. A certificate issued on ATF F 5100.31 that authorizes the bottling or packing 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 project bears labels identical to the labels affixed to the face of the certificate, or labels with changes authorized by the certificate.

Chief, Alcohol and Tobacco Programs Division. The ATF official responsible for issuing revocations of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part. This official is also responsible for deciding certain appeals of denials of applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part.

Chief, Product Compliance Branch. The ATF official responsible for deciding first appeals of denials of applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part. This official is also responsible for proposing revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

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 or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Distinctive liquor bottle. A liquor bottle of distinctive shape or design.

Distinctive liquor bottle approval. Approval issued on ATF F 5100.31 that authorizes the bottling of distilled spirits, or the removal of bottled distilled spirits from customs custody for introduction into commerce, as long as the bottle is identical to the photograph affixed to the face of the form.

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

Liquor bottle: A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes, and which has been determined by the Director to protect the revenue adequately.

Malt beverage. A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without

other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Permittee. Any person holding a basic permit under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint stock company, business trust, association, corporation, 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 thereof.

Product Compliance Branch Specialist. An ATF official responsible for reviewing initial applications for certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals, under this part, with authority to issue approvals, qualified approvals, or denials of such applications for certificates.

United States. The several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

Use of other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

Wine. Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

Subpart C—Applications

§ 13.21 Application for certificate.

(a) *Form of application.* An applicant for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, must send or deliver signed duplicate copies of ATF Form 5100.31, "Application For And Certification/Exemption Of Label/Bottle Approval" to the Product Compliance Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. If the application complies with applicable laws and regulations, a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval will be issued. If the approval is qualified in any manner, such qualifications will be set forth in the appropriate space on the form.

(b) *Time period for action on application.* Within 90 days of receipt of an application, the Product Compliance Branch must notify the applicant whether the application has been approved or denied. The Product Compliance Branch may extend this period of time once by an additional 90 days if it finds that unusual circumstances require additional time to consider the issues presented by an application. If the Product Compliance Branch extends the period, it must notify the applicant by letter, along with a brief explanation of the issues presented by the label. If the applicant receives no decision from the Product Compliance Branch within the time periods set forth in this paragraph, the applicant may file an appeal as provided in § 13.25 of this part.

§ 13.22 Withdrawal of applications.

A person who has filed an application for a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may withdraw such application at any time before ATF takes action on the application.