

Corrections to Federal Wine Labeling Regulations

By Jennifer Berry (716)434-8039

On October 3, 2002, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a Notice of Proposed Rulemaking (Notice No. 953) in the Federal Register. ATF proposed to correct several errors in the wine labeling regulations.

The most significant correction concerns when a fruit and agricultural wine may be treated with sugar and water without ATF considering such treatment an alteration of the wine's class and type. Currently, 27 CFR § 4.22(b)(5) limits such amelioration to wines that have a natural acid content of at least 7.5 parts per thousand. This figure is incorrect. The correct minimum acid level should be 7.69 grams per liter or parts per thousand. ATF propose to amend the regulations to reflect the correct acid level.

ATF also proposes to correct typographical errors and to remove three obsolete sections from Part 4, Labeling and Advertising of Wine. Newer sections have superseded §§ 4.25, 4.35, and 4.72.

ATF requests comments on Notice No. 953. The comment period ends December 2, 2002. See http://www.atf.treas.gov/alcohol/rules/notice_953.pdf for the full text of this proposal and instructions on how to comment. ■

The Spirit of Mount Vernon

By Dan Hiland (202)927-8176

Recently, George Washington's home place at Mount Vernon was the site for a celebration of Washington as one of our country's early, successful whiskey makers. The event called "The Spirit of Mount Vernon" and held on October 8, 2002, featured onsite bottling of whiskeys that have been aged at Mount Vernon, lectures by a historian and an archeologist, and tours of the archeological site of Washington's distillery. Later in the

evening, a well-attended dinner was held, along with a charity auction of the whiskey bottled at Mt. Vernon.

The event was sponsored by the Historic Mount Vernon, the Distilled Spirits Council, the Wine & Spirits Wholesalers of America, and the Congressional Host Committee. For the past few months, representatives from the Regulations Division, National Revenue Center, and Alcohol Labeling and Formulation Division worked with the sponsors of the event to iron out technical details related to the bottling and auctioning of spirits.

ATF was pleased to see that the event turned out to be a complete success for the sponsors. ■

The Geographic Significance of Viticultural Area Names

By Nancy Sutton (415)271-1254 and Marjorie Ruhf (202)927-8210

ATF reminds wine industry members that viticultural area names are geographically significant because they are appellations of origin. When we propose a new viticultural area, wine producers and bottlers who use similar brand names should consider the impact on their products.

Labeling regulations at 27 CFR 4.39(i) prohibit the use of a geographically or viticulturally significant brand name on a wine unless the wine meets the appellation of origin requirements for the named geographic area. In the case of a viticultural area, 85 percent of the grapes used in the wine must have been grown in the named area.

For example, if you own a winery that uses the Grape Valley Winery brand name and ATF establishes a Grape Valley viticultural area, you must review your approved labels for appellation of origin eligibility. You may continue to use the Grape Valley Winery brand name if at least 85 percent of the grapes used to make the wine come from the Grape Valley viticultural area and the wine is fully finished in the State where Grape Valley is located. If a wine is not eligible for the Grape Valley appellation, you must not use the Grape Valley Winery brand name. You must apply for a new certificate of label approval

that shows a different brand name for the wine. The new brand name must not suggest the viticultural area name.

The prohibition on the use of geographic brand names in 27 CFR 4.39(i) contains an exception. A geographic brand name may be used on the labels of wines that are not eligible for the appellation of origin if—

- The name was approved for use before July 7, 1986, AND
- The bottler puts information on the label that makes it clear to the consumer that the grapes used did not come from the area suggested by the name.

It is the bottler's responsibility to assure that the wine in the bottle matches the claims on the label. If ATF discovers that a wine is ineligible for the appellation suggested by its geographic brand name, we will take corrective action. For example, we could require re-labeling of wines or cite violations of the labeling regulations.

ATF gives formal notice of proposed rules, including proposed viticultural areas, by publishing them in the Federal Register. We also give informal notice by sending press releases to wine industry publications, mentioning the petition in the A&T newsletter, and putting the Notice on our Web site

[\[http://www.atf.treas.gov/alcohol/rules/index.htm\]](http://www.atf.treas.gov/alcohol/rules/index.htm) when we publish in the Federal Register. We generally allow a 60-day comment period on proposed viticultural areas after Notices of Proposed Rulemaking are published. Each notice contains instructions for commenting by mail, fax, e-mail, or Web-based form.

Anyone may petition for a change in ATF regulations under 27 CFR 70.701. If you want to petition for a change in the viticultural area designation process or the use of geographic brand names on wine labels, contact the ATF Regulations Division, Room 5000, 650 Massachusetts Avenue, NW., Washington, DC 20226. ■

More on “How To Avoid Common Pitfalls” When Applying for Permits

By Sandy Clark, National Revenue Center (513)684-7274

The National Revenue Center (NRC) processes permit applications for ATF regulated industries, nationwide. We've again identified some common mistakes made by companies applying, this time, for permits in our “high volume” areas - wholesaling and importing alcoholic beverages, and importing tobacco products. We offer these hints on what our customers can do to avoid the most common mistakes made during the application process:

- Applicants for alcoholic beverage **wholesaler or importer** basic permits must show the source of funds invested in the business in Item 8 (Owner Information) on ATF Form 5100.24, “Application for Basic Permit Under The Federal Alcohol Administration Act”. This information must include the name and location (city and state) of the financial institution (bank, savings and loan, etc.) from which the funds were derived (or are currently located if this investment came from personal savings, loans or other similar means). If Item 8 is incomplete, the NRC can't process the application until we contact the applicant and obtain additional information. This routinely means delays in issuing the permit.
- Applicants for **tobacco importer** basic permits must include source of funds information in Item 13 on ATF Form 5230.4, “Application For Permit Under 26 U.S.C. Chapter 52, Importer of Tobacco Products”. Item 13 is often completely overlooked by applicants and again this will routinely cause delays in processing applications and issuing permits.

Anyone needing help in obtaining or completing these, or any other permit application forms, should contact the National Revenue Center at 1-800-398-2282 or e-mail us at: natlrevctr@cinc.atf.treas.gov. ■

Domestic Ice Wine Labeling

By Leslie Nelson (202) 927-8140

ATF will soon be issuing a ruling, which holds that wine made from grapes frozen after harvest may not be labeled with the term “ice wine”, or any variation thereof, and if the wine is labeled to suggest it was made from such frozen grapes, the label must be qualified to show that the grapes were frozen post-harvest. This ruling amplifies ATF Rulings 78-4 and 82-4. ATF Ruling 78-4, 1978 C.B. 61, held that the term “ice wine” may only appear on labels of wine made from grapes that were partially frozen on the vine. ATF Ruling 82-4, 1982-2 Q.B. 43 held, in part, that wine made from concentrate or which has been sweetened or fortified may not bear labels containing the terms “late harvest,” “ice wine” or similar designations.

ATF is aware that a number of domestic wine producers desiring to make a wine similar in style to ice wine are practicing cryoextraction in which the grapes are frozen after harvest but before pressing. This method is not weather-dependent and is a cost-effective means of producing juice with properties similar to juice pressed from grapes frozen on the vine. The production of true ice wine is a very labor intensive process with the pressing of the grapes frozen on the vine yielding a much smaller quantity of very sweet, concentrated juice.

27 CFR 4.39(a)(1) prohibits the use of any term or statement on a wine label which tends to create a misleading impression about the wine. Because “ice wine” is a recognized term for wine made from grapes frozen on the vine, the use of this term is misleading to consumers if used on a label of wine made using methods such as cryoextraction which simulates the properties of ice wine. 27 CFR 4.39(l) impacts the labeling of ice wine as well. 27 CFR 4.39(l) prohibits the use of any foreign term on a domestic wine label which either describes a condition of the grapes at the time of harvest or which denotes quality under foreign law. ALFD will evaluate foreign terms appearing on domestic wine labels which might lead the consumer to believe the product is ice wine. If you have any questions regarding this matter, please contact ALFD Customer Service at (202) 927-8140, toll free (866) 927-ALFD (2533) or by email at alfd@atfhq.atf.treas.gov.

Organic Labeling

By Rick Evanchec, (202) 927-8140

On October 8, 2002, ATF issued a temporary rule to amend its alcohol labeling and advertising rules. The amended rules cross-reference the United States Department of Agriculture's (USDA) National Organic Program (NOP) rules. Any alcohol beverage labeled or advertised with an organic claim must comply with both NOP rules administered by USDA and the applicable rules administered by ATF. You may view the ATF temporary rule at

<http://www.atf.treas.gov/regulations/td483.pdf>.

Anyone wishing to submit comment on the rule may do so until December 9, 2002.

Questions or suggestions relating to the Alcohol & Tobacco Newsletter should be directed to the Editor by fax at (202) 927-5611 or by mail at the following address: Bureau of ATF, 650 Massachusetts Avenue, NW, Room 8110, Attention: Joette Brown, Editor, Alcohol & Tobacco Newsletter, Washington, D.C. 20226.