

**1513-0087**

**26 U.S.C.**

**Sec. 205. Unfair competition and unlawful practices**

It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

e) Labeling

To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with such regulations, to be prescribed by the Secretary of the Treasury, with respect to packaging, marking, branding, and labeling and size and fill of container (1) as will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit, irrespective of falsity, such statements relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matters as the Secretary of the Treasury finds to be likely to mislead the consumer; (2) as will provide the consumer with adequate information as to the identity and quality of the products, the alcoholic content thereof (except that statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages are prohibited unless required by State law and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume), the net contents of the package, and the manufacturer or bottler or importer of the product; (3) as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled, or in case of neutral spirits or of gin produced by a process of continuous distillation, the name of the commodity from which distilled; (4) as will prohibit statements on the label that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; and (5) as will prevent deception of the consumer by use of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, and as will prevent the use of a graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been indorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: Provided, That this clause shall not apply to the use of the name of any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled

spirits, wine, or malt beverages, nor to the use by any person of a trade or brand name used by him or his predecessor in interest prior to August 29, 1935; including regulations requiring, at time of release from customs custody, certificates issued by foreign governments covering origin, age, and identity of imported products: Provided further, That nothing herein nor any decision, ruling, or regulation of any Department of the Government shall deny the right of any person to use any trade name or brand of foreign origin not presently effectively registered in the United States Patent and Trademark Office which has been used by such person or predecessors in the United States for a period of at least five years last past, if the use of such name or brand is qualified by the name of the locality in the United States in which the product is produced, and, in the case of the use of such name or brand on any label or in any advertisement, if such qualification is as conspicuous as such name or brand.

It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon distilled spirits, wine, or malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law or except pursuant to regulations of the Secretary of the Treasury authorizing relabeling for purposes of compliance with the requirements of this subsection or of State law.

In order to prevent the sale or shipment or other introduction of distilled spirits, wine, or malt beverages in interstate or foreign commerce, if bottled, packaged, or labeled in violation of the requirements of this subsection, (1) no bottler of distilled spirits, no producer, blender, or wholesaler of wine, or proprietor of a bonded wine storeroom, and no brewer or wholesaler of malt beverages shall bottle, and (2) no person shall remove from customs custody, in bottles, for sale or any other commercial purpose, distilled spirits, wine, or malt beverages, respectively, after such date as the Secretary of the Treasury fixes as the earliest practicable date for the application of the provisions of this subsection to any class of such persons (but not later than August 15, 1936, in the case of distilled spirits, and December 15, 1936, in the case of wine and malt beverages, and only after thirty days' public notice), unless, upon application to the Secretary of the Treasury, he has obtained and has in his possession a certificate of label approval covering the distilled spirits, wine, or malt beverages, issued by the Secretary in such manner and form as he shall by regulations prescribe: Provided, That any such bottler of distilled spirits, or producer, blender, or wholesaler of wine, or proprietor of a bonded wine storeroom, or brewer or wholesaler of malt beverages shall be exempt from the requirements of this subsection if, upon application to the Secretary, he shows to the satisfaction of the Secretary that the distilled spirits, wine, or malt beverages to be bottled by the applicant are not to be sold, or offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce. Officers of internal revenue are authorized and directed to withhold the release of distilled spirits from the bottling plant unless such certificates have been obtained, or unless the application of the bottler for exemption has been granted by the Secretary; and customs officers are authorized and directed to withhold the release from customs custody of distilled spirits, wine, and malt beverages, unless such certificates have been obtained. The District Courts of the United States, and the United States court for any Territory shall have jurisdiction of suits to enjoin, annul, or

suspend in whole or in part any final action by the Secretary upon any application under this subsection; or

(f) Advertising

To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of distilled spirits, wine, or malt beverages, if such advertisement 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 such regulations, to be prescribed by the Secretary of the Treasury, (1) as will prevent deception of the consumer with respect to the products advertised and as will prohibit, irrespective of falsity, such statements relating to age, manufacturing processes, analyses, guaranties, and scientific or irrelevant matters as the Secretary of the Treasury finds to be likely to mislead the consumer; (2) as will provide the consumer with adequate information as to the identity and quality of the products advertised, the alcoholic content thereof (except the statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages and wines are prohibited), and the person responsible for the advertisement; (3) as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled, or in case of neutral spirits or of gin produced by a process of continuous distillation, the name of the commodity from which distilled; (4) as will prohibit statements that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; (5) as will prevent statements inconsistent with any statement on the labeling of the products advertised. This subsection shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising. The prohibitions of this subsection and regulations thereunder shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a distiller, brewer, rectifier, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate.

The provisions of subsections (a), (b), and (c) of this section shall not apply to any act done by an agency of a State or political subdivision thereof, or by any officer or employee of such agency.

In the case of malt beverages, the provisions of subsections (a), (b), (c), and (d) of this section shall apply to transactions between a retailer or trade buyer in any State and a brewer, importer, or wholesaler of malt beverages outside such State only to the extent that the law of such State imposes similar requirements with respect to similar transactions between a retailer or trade buyer in such State and a brewer, importer, or wholesaler of malt beverages in such State, as the case may be. In the case of malt beverages, the provisions of this subsection and subsection (e) of this section shall apply to the labeling of malt beverages sold or shipped or delivered for shipment or otherwise introduced into or received in any State from any place

outside thereof, or the advertising of malt beverages intended to be sold or shipped or delivered for shipment or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling or advertising, as the case may be, of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

The Secretary of the Treasury shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations to carry out the provisions of this section.

(Aug. 29, 1935, ch. 814, title I, Sec. 105, formerly Sec. 5, 49 Stat. 981; Feb. 29, 1936, ch. 105, Sec. 2, 49 Stat. 1152; June 25, 1936, ch. 804, 49 Stat. 1921; June 26, 1936, ch. 830, title V, Secs. 505, 506, 49 Stat. 1965, 1966; 1940 Reorg. Plan No. III, Sec. 2, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Apr. 20, 1942, ch. 244, Sec. 1(h), 56 Stat. 219; June 25, 1948, ch. 646, Sec. 32(b), 62 Stat. 991; May 24, 1949, ch. 139, Sec. 127, 63 Stat. 107; renumbered title I, Sec. 105, and amended Pub. L. 100-690, title VIII, Sec. 8001(a)(1), (2), (b)(2), Nov. 18, 1988, 102 Stat. 4517, 4521; Pub. L. 106-113, div. B, Sec. 1000(a)(9) [title IV, Sec. 4732(b)(13)], Nov. 29, 1999, 113 Stat. 1536, 1501A-584.)

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**Sec. 4.32 Mandatory label information.**

(a) There shall be stated on the brand label:

(1) Brand name, in accordance with Sec. 4.33.

(2) Class, type, or other designation, in accordance with Sec.

4.34.

(3) Alcohol content, in accordance with Sec. 4.36.

(4) On blends consisting of American and foreign wines, if any reference is made to the presence of foreign wine, the exact percentage by volume.

(b) There shall be stated on any label affixed to the container:

(1) Name and address, in accordance with Sec. 4.35.

(2) Net contents, in accordance with Sec. 4.37. If the net contents is a standard of fill other than an authorized metric standard of fill as prescribed in Sec. 4.73, the net contents statement shall appear on a label affixed to the front of the bottle.

(c) There shall be stated on the brand label or on a back label a statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(d) [Reserved]

(e) Declaration of sulfites. There shall be stated on a front label, back label, strip label or neck label, the statement ``Contains sulfites'' or ``Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The provisions of this paragraph shall apply to:

(1) Any certificate of label approval issued on or after January 9, 1987;

(2) Any wine bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(3) Any wine removed on or after January 9, 1988.

(Paragraph (e) approved by the Office of Management and Budget under Control Number 1513-0084)

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-150, 48 FR 45556, Oct. 6, 1983; T.D. ATF-195, 50 FR 763, Jan. 7, 1985; T.D. ATF-220, 50 FR 51852, Dec. 20, 1985; T.D. ATF-236, 51 FR 34710, Sept. 30, 1986; T.D. ATF-282, 54 FR 7162, Feb. 16, 1989; T.D. ATF-312, 56 FR 31076, 31077, July 9, 1991; T.D. TTB-12, 69 FR 33573, June 16, 2004]

**Sec. 4.39 Prohibited practices.**

(a) Statements on labels. Containers of wine, or any label on such containers, or any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer shall not contain:

(1) Any statement that is false or untrue in any 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 statement that is disparaging of a competitor's products.

(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) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to 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; Provided, That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, blender, rectifier, importer, wholesaler, retailer, bottler, or warehouseman of wine, nor 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 him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation (other than a statement of alcohol content in conformity with Sec. 4.36), which tends to create the impression that a wine:

- (i) Contains distilled spirits;
- (ii) Is comparable to a distilled spirit; or
- (iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein.

(8) Any coined word or name in the brand name or class and type designation which simulates, imitates, or which tends to create the impression that the wine so labeled is entitled to bear, any class, type, or permitted designation recognized by the regulations in this part unless such wine conforms to the requirements prescribed with respect to such designation and is in fact so designated on its labels.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or created the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base. Examples of such words are: ``Manhattan,'' ``Martini,'' and ``Daquiri'' in a class and type designation or brand name of a wine cocktail; ``Cuba Libre,'' ``Zombie,'' and ``Collins'' in a class and type designation or brand name of a wine specialty or wine highball; ``creme,'' ``cream,'' ``de,'' or ``of'' when used in conjunction with ``menthe,'' ``mint,'' or ``cacao'' in a class and type designation or a brand name of a mint or chocolate flavored wine specialty.

(b) Statement of age. No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of Sec. 4.27; (2) references relating to methods of wine production involving storage or aging in accordance with Sec. 4.38(f); or (3) use of the word ``old'' as part of a brand name.

(c) Statement of bottling dates. The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears in lettering not greater than 8-point Gothic caps and in the following form: ``Bottled in ----'' (inserting the year in which the wine was bottled).

(d) Statement of miscellaneous dates. No date, except as provided in paragraphs (b) and (c) of this section with respect to statement of vintage year and bottling date, shall be stated on any label unless in addition thereto and in direct conjunction therewith in the same size and kind of printing, there shall be stated an explanation of the significance thereof such as ``established'' or ``founded in''. If any such date refers to the date of establishment of any business or brand name, it shall not be stated, in the case of containers of a capacity of 5 liters or less, in any script, type, or printing larger than 2 millimeters, and shall be stated in direct conjunction with the name of the person, company, or brand name to which it refers if the appropriate TTB officer finds that this is necessary in order to prevent confusion as to the person, company, or brand name to which the establishment date is applicable.

(e) Simulation of Government stamps. (1) No labels shall be of such design as to resemble or simulate a stamp of the United States Government or any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the wine contained in the labeled container is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State or Federal Government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State or municipal law or regulation, or is required or specifically authorized by the laws or regulations of a foreign country. If the municipal, State, or Federal Government permit number is stated upon a label, it shall not be accompanied by any additional statement relating thereto.

(2) Bonded wine cellar and bonded winery numbers may be stated but only in direct conjunction with the name and address of the person operating such wine cellar or winery. Statement of bonded wine cellar or winery numbers may be made in the following form: ``Bonded Wine Cellar No. ----'', ``Bonded Winery No. ----'', ``B. W. C. No. ----'', ``B. W. No. ----''. No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(3) If imported wines are covered by a certificate of origin and/or a certificate of vintage date issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statements relating thereto. The reference to such certificate or certification shall be substantially in the following form:

This product accompanied at the time of the importation by a certificate issued by the

---

(Name of government)

government indicating that the product is

---

(Class and type as stated on the label)

and (if label bears a statement of vintage date) that the wine is of the vintage of

---

(Year of vintage stated on the label)

(f) Use of the word "Importer", or similar words. The word Importer, or similar words, shall not be stated on labels on containers of domestic wine except as part of the bona fide name of a permittee for or by whom, or of a retailer for whom, such wine is bottled, packed or distributed: Provided, That in all cases where such words are used as part of such name, there shall be stated on the same label the words "Product of the United States", or similar words to negative any impression that the product is imported, and such negative statement shall appear in the same size and kind of printing as such name.

(g) Flags, seals, coats of arms, crests, and other insignia. Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

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

(i) Health-related statement means any statement related to health (other than the warning statement required by Sec. 16.21 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, wine, or any substance found within the wine, 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, wine, or any substance found within the wine, 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 wine, 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 wine, alcohol, or any substance found within the wine, 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 wine, alcohol, or any substance found within the wine, 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 wine or alcohol consumption.

(2) Rules for labeling--(i) Health-related statements. In general, labels 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.

(ii) Specific health claims. (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a wine label. 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 a wine label.

(B) TTB will approve the use of a specific health claim on a wine label only if the claim 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.

(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 wine 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 wine or alcohol consumption; and

(B)(1) 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

(2) 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.

(i) Geographic brand names. (1) Except as provided in subparagraph 2, a brand name of viticultural significance may not be used unless the wine meets the appellation of origin requirements for the geographic area named.

(2) For brand names used in existing certificates of label approval issued prior to July 7, 1986:

(i) The wine shall meet the appellation of origin requirements for the geographic area named; or

(ii) The wine shall be labeled with an appellation of origin in accordance with Sec. 4.34(b) as to location and size of type of either:

(A) A county or a viticultural area, if the brand name bears the name of a geographic area smaller than a state, or;

(B) A state, county or a viticultural area, if the brand name bears a state name; or

(iii) The wine shall be labeled with some other statement which the appropriate TTB officer finds to be sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of

the origin of the wine.

(3) A name has viticultural significance when it is the name of a state or county (or the foreign equivalents), when approved as a viticultural area in part 9 of this chapter, or by a foreign government, or when found to have viticultural significance by the appropriate TTB officer.

(j) Product names of geographical significance (not mandatory before January 1, 1983). The use of product names with specific geographical significance is prohibited unless the appropriate TTB officer finds that because of their long usage, such names are recognized by consumers as fanciful product names and not representations as to origin. In such cases the product names shall be qualified with the word "brand" immediately following the product name, in the same size of type, and as conspicuous as the product name itself. In addition, the label shall bear an appellation of origin under the provisions of Sec. 4.34(b), and, if required by the appropriate TTB officer, a statement disclaiming the geographical reference as a representation as to the origin of the wine.

(k) Other indications of origin. Other statements, designs, devices or representations which indicate or infer an origin other than the true place of origin of the wine are prohibited.

(l) Foreign terms. Foreign terms which: (1) Describe a particular condition of the grapes at the time of harvest (such as "Auslese," "Eiswein," and "Troockenbeerenauslese"); or (2) denote quality under foreign law (such as "Qualitatswein" and "Kabinett") may not be used on the labels of American wine.

(m) Use of a vineyard, orchard, farm or ranch name. When used in a brand name, a vineyard, orchard, farm or ranch name having geographical or viticultural significance is subject to the requirements of Sec. 4.33(b) and 4.39(i) of this part. Additionally, the name of a vineyard, orchard, farm or ranch shall not be used on a wine label, unless 95 percent of the wine in the container was produced from primary winemaking material grown on the named vineyard, orchard, farm or ranch.

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

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

#### **Sec. 4.62 Mandatory statements.**

(a) Responsible advertiser. The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

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

(c) Exception. (1) If an advertisement refers to a general wine line or all of the wine products of one company, whether by the company name or by the brand name common to all the wine in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of wine is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

**Sec. 4.64 Prohibited practices.**

(a) Restrictions. The advertisement of wine 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 statement that is disparaging of a competitor's products.

(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) Any statement that the wine is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State, or Federal Government authorization, law, or regulations; and if a municipal, State, or Federal permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: ``Bonded Winecellar No. ----, '' ``Bonded Winery No. ----, '' ``B. W. C. No. ----, '' ``B. W. No. ----.'' No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(8) Any statement, design, device, or representation which relates to alcohol content or which tends to create the impression that a wine:

(i) Contains distilled spirits; or

(ii) Is comparable to a distilled spirit; or

(iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein. Further, an approved wine label, which bears the statement of alcohol content may be depicted in any advertising media, or an actual wine bottle showing the approved label bearing the statement of alcoholic content may be displayed in any

advertising media.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base.

(b) Statements inconsistent with labeling. (1) Advertisements shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

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

(c) Statement of age. No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of Sec. 4.27; (2) references in accordance with Sec. 4.38(f); or (3) use of the word "old" as part of a brand name.

(d) Statement of bottling dates. The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form:

"Bottled in ----" (inserting the year in which the wine was bottled).

(e) Statement of miscellaneous dates. No date, except as provided in paragraphs (c) and (d) of this section, with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and in direct conjunction therewith, in the same size and kind of printing there shall be stated an explanation of the significance of such date: Provided, That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(f) Flags, seals, coats of arms, crests, and other insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crests, or insignia is associated.

(g) Statements indicative of origin. No statement, design, device, or representation which tends to create the impression that the wine originated in a particular place or region, shall appear in any advertisement unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement in direct conjunction with the class and type designation.

(h) Use of the word "importer" or similar words. The word importer or similar words shall not appear in advertisements of domestic wine except as part of the bona fide name of the permittee by or for whom, or of a retailer for whom, such wine is bottled, packed or distributed: Provided, That in all cases where such words are used as part of such name, there shall be stated the words "Product of the United States" or similar words to negate any impression that the product is imported, and such negating statements shall appear in the same size and kind of printing as such name.

(i) Health-related statements--(1) Definitions. When used in this

paragraph (i), 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, wine, or any substance found within the wine, 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, wine, or any substance found within the wine, 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 wine, 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 wine, alcohol, or any substance found within the wine, 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 wine, alcohol, or any substance found within the wine, 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 wine 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 wine 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 wine 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.

(j) Confusion of brands. Two or more different brands or lots of wine 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 provision of Sec. 4.60 through 4.64 or are in any respect untrue.

(k) Deceptive advertising techniques. Subliminal or similar techniques are prohibited. ``Subliminal or similar techniques,' ' as used in this part, 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.

[T.D. 6521, 25 FR 13843, Dec. 29, 1960, as amended by T.D. 6976, 33 FR 15025, Oct. 8, 1968; T.D. ATF-53, 43 FR 37678, Aug. 23, 1978; T.D. ATF-180, 49 FR 31672, Aug. 8, 1984; TTB T.D.-1, 68 FR 10103, Mar. 3, 2003]

#### **Sec. 5.32 Mandatory label information.**

There shall be stated:

(a) On the brand label:

(1) Brand name.

(2) Class and type, in accordance with Sec. 5.35.

(3) Alcoholic content, in accordance with Sec. 5.37.

(4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in Sec. 5.47, net contents in accordance with Sec. 5.38(b) or Sec. 5.38a(b)(2).

(b) On the brand label or on a back label:

(1) Name and address, in accordance with Sec. 5.36.

(2) In the case of imported spirits, the country of origin, in accordance with Sec. 5.36.

(3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in Sec. 5.47 or Sec. 5.47a, net contents in accordance with Sec. 5.38(a), Sec. 5.38a(a), or Sec. 5.38a(b)(1).

(4) Coloring or flavoring, in accordance with Sec. 5.39.

(5) A statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(6) [Reserved]

(7) Declaration of sulfites. There shall be stated, the statement ``Contains sulfites'' or ``Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The sulfite declaration may appear on a strip label or neck label in lieu of appearing on the front or back label. The provisions of this paragraph shall apply to:

(i) Any certificate of label approval issued on or after January 9, 1987;

(ii) Any distilled spirits bottled on or after July 9, 1987,

regardless of the date of issuance of the certificate of label approval; and,

(iii) Any distilled spirits removed on or after January 9, 1988.

(8) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin, the name of the commodity only, in accordance with Sec. 5.39.

(9) A statement of age or age and percentage, when required, in accordance with Sec. 5.40.

(10) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with Sec. 5.36.

(c) In the case of a container which has been excepted under the provisions of Sec. 5.46(d), the information required to appear on the "brand label," as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

(Paragraph (b)(7) approved by the Office of Management and Budget under Control No. 1513-0084)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-25, 41 FR 10220, Mar. 10, 1976; 41 FR 11022, Mar. 16, 1976; T.D. ATF-94, 46 FR 55096, Nov. 6, 1981; T.D. ATF-150, 48 FR 45556, Oct. 6, 1983; 48 FR 46518, Oct. 13, 1983; T.D. ATF-220, 50 FR 51852, Dec. 20, 1985; T.D. ATF-236, 51 FR 34710, Sept. 30, 1986; T.D. ATF-282, 54 FR 7162, Feb. 16, 1989; T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000; T.D. TTB-12, 69 FR 33574, June 16, 2004]

#### **Sec. 5.42 Prohibited practices.**

(a) Statements on labels. Bottles containing distilled spirits, or any labels on such bottles, or any individual covering, carton, or other container of such bottles used for sale at retail, or any written, printed, graphic, or other matter accompanying such bottles to the consumer shall not contain:

(1) Any statement that is false or untrue in any 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 statement that is disparaging of a competitor's product.

(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) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely to falsely lead the consumer to 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:

Provided, That this paragraph shall not apply to the use of the name of any person engaged in business as a distiller, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, nor 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 him or his predecessors in interest prior to August 29, 1935.

(b) Miscellaneous. (1) Labels shall not be of such design as to resemble or simulate a stamp of the U.S. Government or any State or foreign government. Labels, other than stamps authorized or required by this or any other government, shall not state or indicate that the distilled spirits are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, Federal, or foreign authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, municipal, or foreign law or regulations. The statements authorized by this part to appear on labels for domestic distilled spirits are "Distilled (produced, barreled, warehoused, blended, or bottled, or any combination thereof, as the case may be) under United States (U.S.) Government supervision", or in the case of distilled spirits labeled as bottled in bond, "Bottled in bond under United States (U.S.) Government supervision". If the municipal, State, or Federal Government permit number is stated on a label, it shall not be accompanied by any additional statement relating thereto.

(2) If imported distilled spirits are covered by a certificate of origin or of age issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statement relating thereto. The reference to such certificate or certification shall, in the case of Cognac, be substantially in the following form: "This product accompanied at the time of importation by an 'Acquit Regional Jaune d'Or' issued by the French Government, indicating that this grape brandy was distilled in the Cognac Region of France"; and in the case of other distilled spirits, substantially in the following form: "This product accompanied at time of importation by a certificate issued by the ---- government (name of government) indicating that the product is ---- (class and type as required to be stated on the label), and (if label claims age) that none of the distilled spirits are of an age less than stated on this label."

(3) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless the distilled spirits are:

- (i) Composed of the same kind of spirits produced from the same class of materials;
- (ii) Produced in the same distilling season by the same distiller at the same distillery;
- (iii) Stored for at least four years in wooden containers wherein the spirits have been in contact with the wood surface except for gin and vodka which must be stored for at least four years in wooden containers coated or lined with paraffin or other substance which will preclude contact of the spirits with the wood surface;
- (iv) 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 incorporated in the finished product or result in a change in class or type);

(v) Reduced in proof by the addition of pure water only to 100 degrees of proof; and

(vi) Bottles at 100 degrees of proof.

In addition to the requirements of Sec. 5.36(a) (1) or (2), the label shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, and the plant (or registered distillery) number in which produced; and the plant number in which bottled. The label may also bear the name or trade name of the bottler.

(4) The words ``bond'', ``bonded'', ``bottled in bond'', ``aged in bond'', or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless the distilled spirits meet in all respects the requirements applicable to distilled spirits bottled for domestic consumption, so labeled, and unless the laws and regulations of the country in which such distilled spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as ``bonded'', ``bottled in bond'', or ``aged in bond'' pursuant to the provisions of this paragraph shall bear in direct conjunction with such statement and in script, type, or printing substantially as conspicuous as that used on such statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

(5) The word ``pure'' shall not be stated upon labels unless:

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

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

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

(6) Distilled spirits shall not be labeled as ``double distilled'' or ``triple distilled'' or any similar term unless it is a truthful statement of fact; except that ``double distilled'' or ``triple distilled'' shall not be permitted on labels of distilled spirits produced by the redistillation method when a second or third distillation step is a necessary distillation process for the production of the product.

(7) Labels shall not contain any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(8) Health-related statements--(i) Definitions. When used in this paragraph (b)(8), terms are defined as follows:

(A) Health-related statement means any statement related to health (other than the warning statement required by Sec. 16.21 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, 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.

(B) 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.

(C) 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.

(ii) Rules for labeling--(A) Health-related statements. In general, labels 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.

(B) Specific health claims. (1) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a distilled spirits label. 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 a distilled spirits label.

(2) 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; 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.

(C) 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--

(1) 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  
(2)(i) 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  
(ii) 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.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-62, 44 FR 71621, Dec. 11, 1979; T.D. ATF-180, 49 FR 31673, Aug. 8, 1984; 49 FR 35768. Sept. 12, 1984; T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985; TTB T.D.-1, 68 FR 10104, Mar. 3, 2003]

### **Sec. 5.63 Mandatory statements.**

(a) Responsible advertiser. The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(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 shall be stated in percent-alcohol-by-volume. Products such as ``Rock and Rye'' or similar products containing a significant amount of solid material shall 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 direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(d) Percentage of neutral spirits and name of commodity. (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) 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, as appropriate)''; or -----% neutral spirits (vodka) distilled from ----- (insert grain, cane product, or fruit, as appropriate)''; or ``-----% grain (cane products), (fruit) neutral spirits''; or ``-----% grain spirits''.

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been 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.''

(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 name and address of the responsible advertiser. 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, the only information necessary is the company name or brand name of the product.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-180, 49 FR 31674, Aug. 8, 1984; T.D. ATF-237, 51 FR 36394, Oct. 10, 1986]

### **Sec. 5.65 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 statement that is disparaging of a competitor's product.

(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) Any statement that the distilled spirits are distilled, blended, made, bottled, or sold under or in accordance with any municipal, State, Federal, or foreign authorization, law, or regulation, unless such statement appears in the manner authorized by Sec. 5.42 for labels of distilled spirits. If a municipal, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) 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 Sec. 5.42, 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.

(8) 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.

(9) The words ``double distilled'' or ``triple distilled'' or any similar terms unless it is a truthful statement of fact; except that ``double distilled'' or ``triple distilled'' shall not be permitted in advertisements of distilled spirits produced by the redistillation

method when a second or third distillation step is a necessary distillation process for the production of the product.

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

(2) Any label depicted on a bottle 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 Sec. Sec. 5.31 through 5.42. An advertisement for any whisky or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum or Tequila, which has been aged for not less than 4 years may, however, contain inconspicuous, general representation 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) Flags, seals, coats of arms, crests, and other insignia. An advertisement shall not contain any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) Deceptive advertising techniques. Subliminal or similar

techniques are prohibited. ``Subliminal or similar techniques,'' as used in this part, 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.

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-180, 49 FR 31674, Aug. 8, 1984; TTB T.D.-1, 68 FR 10105, Mar. 3, 2003]

**Sec. 7.22 Mandatory label information.**

There shall be stated:

(a) On the brand label:

(1) Brand name, in accordance with Sec. 7.23.

(2) Class, in accordance with Sec. 7.24.

(3) Name and address (except when branded or burned in the container) in accordance with Sec. 7.25, except as provided in paragraph (b) of this section.

(4) Net contents (except when blown, branded, or burned, in the container) in accordance with Sec. 7.27.

(5) Alcohol content in accordance with Sec. 7.71, for malt beverages that contain any alcohol derived from added flavors or other added nonbeverage ingredients (other than hops extract) containing alcohol.

(b) On the brand label or on a separate label (back or front):

(1) In the case of imported malt beverages, name and address of importer in accordance with Sec. 7.25.

(2) In the case of malt beverages bottled or packed for the holder of a permit or a retailer, the name and address of the bottler or packer, in accordance with Sec. 7.25.

(3) Alcoholic content, when required by State law, in accordance with Sec. 7.71.

(4) A statement that the product contains FD&C Yellow No. 5, where that coloring material is used in a product bottled on or after October 6, 1984.

(5) [Reserved]

(6) Declaration of sulfites. The statement ``Contains sulfites'' or ``Contains (a) sulfiting agent(s)'' or a statement identifying the specific sulfiting agent where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide. The sulfite declaration may appear on a strip label or neck label in lieu of appearing on the front or back label. The provisions of this paragraph shall apply to:

(i) Any certificate of label approval issued on or after January 9, 1987;

(ii) Any malt beverage bottled on or after July 9, 1987, regardless of the date of issuance of the certificate of label approval; and,

(iii) Any malt beverage removed on or after January 9, 1988.

(7) Declaration of aspartame. The following statement, in capital letters, separate and apart from all other information, when the product contains aspartame in accordance with Food and Drug Administration (FDA) regulations:

``PHENYLKETONURICS: CONTAINS PHENYLALANINE.''

(Paragraph (b)(6) approved by the Office of Management and Budget under Control No. 1513-0084)

[T.D. 6521, 25 FR 13859, Dec. 29, 1960]

**Sec. 7.29 Prohibited practices.**

(a) Statements on labels. Containers of malt beverages, or any labels on such containers, or any carton, case, or individual covering of such containers, used for sale at retail, or any written, printed, graphic, or other material accompanying such containers to the consumer, must not contain:

(1) Any statement that is false or untrue in any 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 statement that is disparaging of a competitor's products.

(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) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to 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: Provided, That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, importer, bottler, packer, wholesaler, retailer, or warehouseman, of malt beverages, nor 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 him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation that tends to create a false or misleading impression that the malt beverage contains distilled spirits or is a distilled spirits product. This paragraph does not prohibit the following on malt beverage labels:

(i) A truthful and accurate statement of alcohol content, in conformity with Sec. 7.71;

(ii) The use of a brand name of a distilled spirits product as a malt beverage brand name, provided that the overall label does not present a misleading impression about the identity of the product; or

(iii) The use of a cocktail name as a brand name or fanciful name of a malt beverage, provided that the overall label does not present a misleading impression about the identity of the product.

(b) Simulation of Government stamps. No label shall be of such design as to resemble or simulate a stamp of the United States Government or of any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the malt beverage contained in the labeled container is brewed, made, bottled,



packed, labeled, or sold under, or in accordance with, any municipal, State, Federal, or foreign government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State, or municipal, law or regulation, or is required or specifically authorized by the laws or regulations of the foreign country in which such malt beverages were produced. If the municipal or State government permit number is stated upon a label, it shall not be accompanied by an additional statement relating thereto, unless required by State law.

(c) Use of word ``bonded'', etc. The words ``bonded'', ``bottled in bond'', ``aged in bond'', ``bonded age'', ``bottled under customs supervision'', or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing, shall not be used on any label for malt beverages.

(d) Flags, seals, coats of arms, crests, and other insignia. Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the appropriate TTB officer finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

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

(i) Health-related statement means any statement related to health (other than the warning statement required by Sec. 16.21 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, malt beverages, or any substance found within the malt beverage, 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, malt beverages, or any substance found within the malt beverage, 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 malt beverage, 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 malt beverage, alcohol, or any substance found within the malt beverage, 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 malt beverages, alcohol, or any substance found within the malt beverage, 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 malt beverage or alcohol consumption.

(2) Rules for labeling--(i) Health-related statements. In general,

labels 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.

(ii) Specific health claims. (A) TTB will consult with the Food and Drug Administration (FDA), as needed, on the use of a specific health claim on a malt beverage label. 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 a malt beverage label.

(B) TTB will approve the use of a specific health claim on a malt beverage label only if the claim 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.

(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 malt beverage 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 malt beverage or alcohol consumption; and

(B)(1) 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

(2) 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.

(f) Use of words "strong," "full strength," and similar words. Labels shall not contain the words "strong," "full strength," "extra strength," "high test," "high proof," "pre-war strength," "full oldtime alcoholic strength," or similar words or statements, likely to be considered as statements of alcoholic content, unless required by State law. This does not preclude use of the terms "low alcohol," "reduced alcohol," "non-alcoholic," and "alcohol-free," in accordance with Sec. 7.71 (d), (e), and (f), nor does it preclude labeling with the alcohol content in accordance with Sec. 7.71.

(g) Use of numerals. Labels shall not contain any statements, designs, or devices, whether in the form of numerals, letters, characters, figures, or otherwise, which are likely to be considered as statements of alcoholic content, unless required by State law, or as permitted by Sec. 7.71.

(h) Coverings, cartons, or cases. Individual coverings, cartons, cases, or other wrappers of containers of malt beverages, used for sale at retail, or any written, printed, graphic, or other matter accompanying the container shall not contain any statement or any graphic pictorial, or emblematic representation, or other matter, which is prohibited from appearing on any label or container of malt beverages.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF-66, 45 FR 40552, June 13, 1980; T.D. ATF-180, 49 FR 31674, Aug. 8, 1984; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF-339, 58 FR 21232, Apr. 19, 1993; TTB T.D.-1, 68 FR 10105, Mar. 3, 2003; TTB T.D.-21, 70 FR 234, Jan. 3, 2005]

**Sec. 7.52 Mandatory statements.**

(a) Responsible advertiser. The advertisement shall state the name and address of the brewer, bottler, packer, wholesaler, or importer responsible for its publication or broadcast. Street number and name may be omitted in the address.

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

(c) Exception. (1) If an advertisement refers to a general malt beverage line or all of the malt beverage products of one company, whether by the company name or by the brand name common to all the malt beverages in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of malt beverage is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31675, Aug. 8, 1984]

**Sec. 7.54 Prohibited statements.**

(a) General prohibition. An advertisement of malt beverages must 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 statement that is disparaging of a competitor's products.

(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) Any statement that the malt beverages are brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulation; and if a municipal or State permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) The words ``bonded'', ``bottled in bond'', ``aged in bond'', ``bonded age'', ``bottled under customs supervision'', or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing.

(8) Any statement, design, device, or representation that tends to create a false or misleading impression that the malt beverage contains distilled spirits or is a distilled spirits product. This paragraph does not prohibit the following in advertisements for malt beverages:

(i) A truthful and accurate statement of alcohol content, in conformity with Sec. 7.71;

(ii) The use of a brand name of a distilled spirits product as a malt beverage brand name, provided that the overall advertisement does not present a misleading impression about the identity of the product; or

(iii) The use of a cocktail name as a brand name or fanciful name of a malt beverage, provided that the overall advertisement does not present a misleading impression about the identity of the product.

(b) Statements inconsistent with labeling. (1) Advertisements shall not contain any statement concerning a brand or lot of malt beverages that is inconsistent with any statement on the labeling thereof.

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

(c) Alcoholic content. (1) Advertisements shall not contain the words "strong," "full strength," "extra strength," "high test," "high proof," "full alcohol strength," or any other statement of alcoholic content, or any statement of the percentage and quantity of the original extract, or any numerals, letters, characters, figures, or similar words or statements, likely to be considered as statements of alcoholic content, unless required by State law. This does not preclude use of the terms "low alcohol," "reduced alcohol," "non-alcoholic," and "alcohol-free," as used on labels, in accordance with Sec. 7.71 (d), (e), and (f).

(2) An approved malt beverage label which bears a statement of alcoholic content permitted under Sec. 7.71 may be depicted in any advertising media. The statement of alcoholic content on the label may not appear more prominently in the advertisement than it does on the approved label.

(3) An actual malt beverage bottle showing the approved label bearing a statement of alcoholic content permitted under Sec. 7.71 may be displayed in any advertising media.

(d) Class. (1) No product containing less than one-half of 1 per centum of alcohol by volume shall be designated in any advertisement as "beer," "lager beer," "lager," "ale," "porter," or "stout," or by any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 per centum or more of alcohol by volume.

(2) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to "ale," "porter," or "stout" and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations.

(e) Health-related statements--(1) Definitions. When used in this paragraph (e), 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, malt beverages, or any substance found within the malt beverage, 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, malt beverages, or any substance found within the malt beverage, 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 malt beverage, 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 malt beverage, alcohol, or any substance found within the malt beverage, 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 malt beverages, alcohol, or any substance found within the malt beverage, 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 malt beverage 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 malt beverage 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 malt beverage 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.

(f) Confusion of brands. Two or more different brands or lots of malt beverages shall not be advertised in one advertisement (or in two

or more advertisements in one issue of a periodical or a 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 provision of Sec. 7.50 through 7.54 or are in any respect untrue.

(g) Flags, seals, coats of arms, crests, and other insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to 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 the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) Deceptive advertising techniques. Subliminal or similar techniques are prohibited. "Subliminal or similar techniques," as used in this part, 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.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31675, Aug. 8, 1984; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF-339, 58 FR 21232, Apr. 19, 1993; TTB T.D.-1, 68 FR 10106, Mar. 3, 2003; TTB T.D.-21, 70 FR 235, Jan. 3, 2005]

