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INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION
WASHINGTON, D. C. 20224

Industry Circular No. 66-9 May 25, 1966

RECOMMENDATIONS OF THE DISTILLED SPIRITS
STANDARDS AND LABELING SURVEY COMMITTEE

Proprietors of Distilled Spirits Plants,
Importers and Wholesalers of Distilled
Spirits, and others concerned:

Last June a Distilled Spirits Standards and Labeling Survey Committee was established within the Alcohol and Tobacco Tax Division to reappraise the regulations issued pursuant to the Federal Alcohol Administration Act, as set forth in 27 CFR, Part 5, Labeling and Advertising of Distilled Spirits.

The first phase of the Committee's work is completed. A thorough study was made of the regulations and of suggestions presented by all interested parties. The Committee's study also included the petitions submitted to the Division within the past several years, the pertinent items set forth in the reports of the Tariff Commission on whisky, and the general views expressed by the various subcommittees of the Congress on deceptive packaging. The Committee's foremost consideration was to determine what would best serve the interests of all concerned - that is, the consumer, the industry, and the Government. The Committee then undertook to explore the problem areas, analyze such areas, and develop an improved regulation.

In addition to proposing many substantive changes, the Committee found that the regulations would be improved by combining sections, rearranging subparts, rewording language to achieve a higher degree of clarity, adding new provisions, and deleting obsolete matter. For better appreciation and comprehension, it was felt that the Committee's work should be presented in the form of a complete regulation (see attachment). Also attached is a discussion of some of the problem areas which were explored by the Committee and its general approach in developing corrective solutions. This discussion was presented in a speech to the National Alcoholic Beverage Control Association, Inc., at its annual conference on May 16, 1966.

IMPORTANT. A hearing was held late last month in Washington to ascertain the truth or falsity of age representations on labels with respect to storage of neutral spirits in used cooperage. This hearing also explored the question of whether the standards of identity should be amended so as to provide that neutral spirits shall not be

stored in wood, and to consider the amendment of standards of identity for "whisky" so as to include spirits distilled from grain at 190° proof, or more, which have been stored in oak containers. The Committee's recommendations in this area were independently arrived at before the hearing.

CAUTION. The proposals contained in the attached document are the Committee's and not those of the Internal Revenue Service or the Treasury Department. They are presented for general review so that the Division may have the benefit of informal reaction and comment to the Committee's draft before proceeding with a specific program. However, it should be remembered that the present regulations can be amended only after public notice and hearing.

You are urged to study the Committee report and to submit your comments and suggestions. They should be forwarded to the Director, Alcohol and Tobacco Tax Division (Attention: CP:AT:JHL), Washington, D.C., 20224, by September 30, 1966. Your reactions will assist us in deciding upon formal proposals for modernizing this regulation.

Harold A. Serr
Director, Alcohol & Tobacco Tax Division

Attachments

Remarks by
Harold A. Serr, Director
Alcohol and Tobacco Tax Division
Internal Revenue Service
before the
National Alcoholic Beverage Control Association, Inc.
29th Annual Conference
San Francisco, California
May 16, 1966

I always find it a pleasure to attend your meetings. I look forward to renewing acquaintances and the opportunity to discuss current items of interest and concern to all of us.

At your annual meeting last May in New York, I announced the establishment of a Committee of Government personnel to make a thorough study of the distilled spirits labeling requirements under the Federal Alcohol Administration Act. At that time I emphasized the problems inherent in such an endeavor, but the pressing need for the study overrode all other considerations.

The Committee's first consideration was to determine what would best serve the interests of all concerned - that is, the consumer, industry, and Government. Its study included the petitions submitted to the Division over the past several years for changes in the labeling requirements for whisky stored in used cooperage, as well as the items expressed in the reports of the Tariff Commission on whisky, and the general views expressed by the various subcommittees of the Congress on deceptive packaging. It found many of the present requirements have withstood the test of time in carrying out their statutory purposes. When a consumer regulation has been in effect for thirty years, it has of course served to educate the public to look to the label for information and to accept the standards prescribed. The Committee therefore concluded that well established consumer concepts should not be disturbed. Similarly, it was aware that changes in the regulations, simply for the sake of change, would serve no real purpose. For these reasons, the Committee proposed changes only to the extent it felt compelled to do so to better serve the public, industry and Government.

Since the regulations are primarily consumer regulations in that they are designed to provide information and protection to the consumer, an appreciation of consumer needs and understanding became necessary if the Committee was to develop and propose effective regulations to carry out the requirements of the Act in the light of present day conditions. In that connection, the Committee advises me that it based its conclusions as to consumers' reactions to a large extent on the following premises:

1. The consumer is not aware of the detailed requirements of the distilled spirits labeling and advertising regulations; but he does know, and relies on, the belief that the bottling and labeling of distilled spirits are somehow controlled.

2. Consumers are not chemists or technical experts, but must rely on information supplied to them in language they can understand.

3. The consumer may never have purchased or used the particular brand or product and, therefore, is forced to rely on the label.

4. The consumer looks to the front or brand label for the information he desires.

5. The consumer anticipates that a product offered to him under a traditional class and type designation will have the characteristics traditionally associated with that designation.

6. The consumer understands age as meaning a process of improvement of spirits through storage in wooden barrels.

With these general views as to consumer understanding in mind, the Committee undertook to develop a simpler approach in product identification and labeling. Its report and recommendations have been submitted to me and I may say I have found them most interesting. Today I would like to discuss with you some of the problem areas which have been explored and the general approach in developing corrective solutions.

The Committee found that one of the most difficult problems in adequate product identification results from the fact that some of the present standards of identity rely on distillation proofs as a principal criterion in distinguishing between different types within classes and between classes of distilled spirits. Evidence was presented to the Committee that this reliance on distillation proof may be ill-advised in view of modern distillation processes. Evidence was found that through the manipulation of distilling apparatus which is now possible, the proof of distillation no longer provides a reliable basis on which to standardize the resulting distillate. The result is that a product distilled at a high distillation proof may have the characteristics formerly associated with those produced at a lower proof, and vice versa. Although recognizing that distillation proof seems to have failed as a basis for distinguishing between products, the Committee was reluctant to turn to manufacturing processes in the search for new criteria since it felt that the industry should be allowed as much freedom as possible in the area of methods of production.

The Committee therefore resorted to another method of defining products. It recalled that in the mid 1930's consideration had been given to the establishment of chemical standards for new distillates

in place of proof of distillation controls. Such standards were never adopted because needed data was not then available. Today, however, with the wealth of experience gained through numerous analyses of spirits, and with improved techniques providing quick determinations with inexpensive equipment, the Committee firmly believes that a minimum chemical standard, at time of distillation, could now be established for all distillates susceptible to such control on which the desired definitions could be based.

The Committee's study of the "whisky" field involved a great number of matters. It was, of course, aware of the tremendous amount of data which exists on this subject. It was aware of the development of two major trends since the whisky standards were promulgated in 1935. First is the apparent consumer preference for "lighter" products. Second is the domestic industry's continued striving to hold the line in production costs. Associated with the latter trend, of course, are the claims of discrimination which have been raised by some industry members in comparing U. S. labeling requirements for foreign whisky with domestic whiskies. Both trends involve production processes and aging methods.

In its consideration of "whisky", one factor became immediately apparent to the Committee. They felt that the standards for American heavy-bodied whiskies, which are widely known and accepted by the consumer, should be retained and protected. To alter these standards basically would not be consistent with consumer understandings of long duration and could result in confusion to the consumer and unwarranted competitive disadvantages to industry. The recent Congressional resolution concerning bourbon whisky was regarded by the Committee as a directive to preserve the bourbon image so that the consumer would continue to receive this unique and distinctively American product.

As to whisky the Committee concluded --

1. That generally grain distillates require aging in oak containers for at least two years before acquiring sufficient character of maturity to be readily accepted as potable whisky (except for corn whisky).

2. That, in recent years, some distillers have been experimenting with various size oak containers for aging whisky. Present regulations do not provide minimum or maximum container sizes. The Committee was concerned lest the storage of domestic whisky in containers of sizes which differ appreciably from the sizes historically used, might result in an end product having characteristics not traditionally associated with the designation historically given such a product. In order to preserve well known and accepted standards the Committee found that container size limitations would be highly desirable.

3. That, in order to make available to the consumer a lighter-bodied American whisky, in addition to the traditional blended whiskies, and at the same time preserve the present standards for traditional American heavy-bodied whiskies, the Committee believed that a new standard of identity for domestic whisky would be desirable.

4. That, in an additional effort to preserve the integrity of the traditional heavy-bodied whiskies and to distinguish them from other American whiskies not stored in new cooperage, the Committee believed that the word "straight" should be permitted to describe only those whiskies which have been stored in charred new oak cooperage for at least four years. Very few straight whiskies less than four years are being marketed, or used as such in the production of blended whiskies.

5. That a problem has developed through the practice of treating whisky immediately before bottling with activated carbon. In many instances, the purpose of such treatment appears to be an attempt to alter the product substantially without changing the class and type designation. Also, the Committee found reason to believe that while "age" was a desirable element to retain, industry wanted to be able to treat whisky with activated carbon to such a degree that it actually had the attributes of a younger product. Thus, the Committee felt that the degree of treatment of whiskies with carbon, charcoal and other materials should be limited so that the customary characteristics of the product obtained through production and aging processes will not be removed. They recognize, however, that such minor changes as may be necessary to produce a stable product must be permitted.

6. That present designations for the types of whisky which have not gained consumer understanding or acceptance should be eliminated, and that the consumer would be better served if products which may be similar or identical in composition, but which are currently sold under different designations, were required to be labeled alike.

7. That if the use of the words "blended" or "a blend", which appear as a part of the designation of Scotch, Irish, and Canadian whiskies, that are mixtures of whiskies, were made optional rather than mandatory, the labeling of these products could conform to labeling of such products for other world markets.

The storage of neutral spirits in wooden containers was another matter considered by the Committee. As many of you are aware, hearings were held last month in Washington to ascertain the permissibility of age representations on labels with respect to the storage of neutral spirits in used cooperage and to consider certain related proposals to amend the regulations. This hearing

was a result of a petition and proffer of evidence, submitted by Joseph E. Seagram & Sons, Inc. pursuant to the suggestions of the Court of Appeals of the District of Columbia, for reconsideration of a denial of approval for a "Calvert Extra" label. This hearing explored the question of whether the standards of identity should be amended so as to provide that neutral spirits shall not be stored in wood, and to consider the amendment of the standards of identity for "whisky" so as to include spirits distilled from grain at 190° proof, or more, which have been stored in oak containers.

As you may appreciate, I cannot at this time comment on the evidence adduced at that hearing. Nor can I offer any comment as to our possible conclusions with respect to this matter. Nor can the views expressed by the Committee in this area be assumed to reflect the Alcohol and Tobacco Tax Division's views.

The Committee found that the present prohibition against storage statements for neutral spirits was designed to protect the consumer from deception. Such statements were considered likely to be construed as representations as to the age of neutral spirits, when in fact neutral spirits by reason of its very name implies a product lacking any pronounced taste, aroma, or color. However, findings indicated that these spirits after storage in wooden containers are different in taste, aroma, and chemical and physical properties and composition from neutral spirits which have not been so stored. The Committee concluded after examination of analysis of numerous samples and making organoleptic tests that neutral spirits produced from grain and aged in wood a minimum of two years have the general characteristics of a very light whisky.

I would like to mention several of the other significant findings of the Committee so that no one will conclude that the study was limited to a consideration of the pressing problems in the neutral spirits and whisky areas alone.

1. Tremendous quantities of vodka have been marketed since June 1950, when the standard for this product was established. Probably no other product has made such spectacular gains. A few years ago, gin outsold vodka about 10 - 1, but in 1965, according to the Division's statistics, vodka bottling inched ahead of gin. The consumer has come to accept it as a product lacking in character and no attempt to change this consumer concept is proposed. However, vodka ideally lends itself to a standard for the finished product. Thus, the Committee found that producers may be safely granted greater liberty in their production processes and that the consumer interests will be adequately protected if he is assured that the product, when bottled, is without distinctive character, aroma, taste, or color.

2. The Committee found the brandy field to be relatively trouble free. However, two interesting determinations were made. First, some brandy producers, like their counterparts making whisky, have been making lighter products to meet apparent consumer demands. Further, it was ascertained that several types of brandies have failed to achieve consumer understanding or acceptance. The Committee therefore felt that several relatively minor changes are needed in the brandy area.

3. Cordials and liqueurs are known to the consumer the world over as sweet alcoholic beverages. A series of tests by our laboratory indicates that a few products currently marketed as liqueurs, although made within the present provisions of the regulations, do not impart a definite sweetness which can be readily recognized by the consumer as characteristic of cordials. The Committee holds that such products should not be permitted to be offered for sale as cordials or liqueurs. However, it was found that, in every instance, the well known traditional liqueurs are characteristically sweet products.

4. In recent years flavored distilled spirits have found their way into the market place in increasing quantities. Flavored brandies and flavored gins have become especially popular. Lacking specific regulatory standards, uniform production practices have not been maintained. Producers have continually attempted to gain competitive advantages through various means, some not always in the consumer interest. Thus, in fairness to all -- consumers and industry alike -- the Committee found that standards are needed for these products.

5. Recently, a number of products have been made at distilled spirits plants containing very small quantities of distilled spirits, some flavoring ingredients, and large quantities of wine. These products have been bottled at less than 48° proof and labeled, stamped, and packaged as distilled spirits. If, however, spirits and flavors are added to wine at a bonded winery, in accordance with the wine regulations, the product remains a wine provided it contains no more than 24 percent of alcohol by volume. Thus, it is possible to have very similar products side by side on the dealer's shelf, one labeled and bottled as wine, the other labeled and bottled as distilled spirits. Certainly, it must be agreed, this is not in the consumer's best interest. Like products should be labeled alike. The Committee was quite clear in its findings that it had no desire to eliminate any of these products from the market but that its interest was limited to the correction of labeling practices which could lead to consumer deception.

6. The question of required data on labels was thoroughly explored. The back label known as the Government label was required with the early regulations in the belief that the consumer would, with experience, become familiar with this form of labeling and would come to rely on it for his source of information. The Committee found that this has not been the case and that many consumers continue to make their purchases primarily on the basis of front label information. Thus, the Committee felt that the principal items of information of interest to the consumer should be readily available on the main label of the package and that the remainder of the required information could be shown either on the brand label or any other label on the package. Under this concept, the Government label could be abandoned. Generally, the most sought items of information about a distilled spirits product are the brand name, class and type, net contents, and alcoholic content.

In this connection, the Committee had occasion to examine a number of containers in which the net contents are marked in the glass rather than stated on the label. It was surprised to find that generally such markings are easily overlooked. Yet such information is of great importance to the consumer and should be readily apparent, especially in those instances where non-standard fill bottles are used.

In addition, as to label information, it was determined that (a) producers could be granted greater freedom in mingling whiskies if the name of the state of distillation of the spirits was required only in those instances where consumer deception would ensue without it, (b) an understatement of age may be as misleading to a consumer as an overstatement of age, and (c) the use of trade names may be broadened to permit more flexible industry operations without leading to consumer deception.

I have just mentioned a few of the Committee's findings. There are many more. The Committee, in its report, based on such findings, made a series of proposals which it felt, for ease of presentation and understanding, in view of the broad scope of the proposals, could best be set forth in regulatory form. The proposals will be available to all concerned in the very near future. It must be understood by all, that these are the Committee's proposals and not those of the Internal Revenue Service or the Treasury Department. They are presented for general review so that the Division may have the benefit of reaction to the Committee's draft. There was no attempt to avoid controversial subjects, but it is sincerely hoped that in most areas, if not all, later formal recommendations will be justified. Let me again remind you, however, that regulatory changes can be made only after public notice and hearing.

The Committee believes that many industry members are anxious and willing to help us in developing new regulations to reflect changes in consumer and trade understandings. To this group it is believed that the proposals offer a sound foundation for the development of needed regulations. The Committee anticipates that the recommendations will not please everyone. From some recent indications, it appears that a few industry members hold that our labeling regulations should not control operations; that the industry should be at liberty to manufacture its products as it wishes and to label the merchandise as it deems most advantageous; that standards of identity are at best mere names open for selection as the consumer market indicates. Apparently, this small group would like some kind of a regulation, but one that is merely window dressing. Certainly no one who is conversant with the law, with the increased attention given by the Government in the marketing of commodities generally, and with the social aspects of the product of this industry can reasonably arrive at such a position. On the other hand, another group has indicated that they prefer no changes whatsoever in the regulations. These two groups will undoubtedly view the proposals with something less than enthusiasm.

In appraising the Committee's recommendations, I foresee a few problems, but nothing that should unduly alarm any of the segments of industry. I am convinced that changes in regulations are needed. There is no doubt that adjustments in operations may have to be made but I am confident that chaos will not result. Industry has experienced many major changes over the years and always has adjusted quickly and advantageously and emerged stronger. Some of the changes were at industry's insistence but others resulted from outside forces. I vividly recall the controversies a few years ago over the extension of the bonding period from eight to twenty years, the mingling away of age of spirits on bonded premises, and the many questions arising out of the one-plant concept. Yet, these matters were resolved, and in such a manner that I'm convinced the industry is stronger today as a result of the advancements achieved at that time.

A member of the President's cabinet recently stated - "We are all faced with a series of opportunities - brilliantly disguised as insoluble problems". We are now facing one such opportunity. Working together, in a statesmanlike manner, with a willingness to accept that which is best for the over-all benefit of the consumer, industry, and Government, I am sure we can develop an improved regulation. If a spirit of cooperation and a willingness to seek majority needs is not evident, it may be necessary for the Government to forego modernization, and to concentrate on changes necessary for the information and protection of the consumer.

THANK YOU.

THE FOLLOWING TABLE HAS BEEN PREPARED AS AN AID IN COMPARING PROVISIONS OF 27 CFR PART 5 WITH THE COMMITTEE'S PROPOSALS.

Present Section No.	Proposed Section No.	Present Section No.	Proposed Section No.
5.1	X.1	5.21(i)(1)	X.22(k)(1)
5.2	X.2	5.21(i)(2)	X.22(k)(2)
5.10(a)-(n)	X.11	5.22(a)	X.23(a)
5.20	X.21	5.22(b)	X.23(b)
5.21(a)	X.22(a)	5.22(c)	X.23(d)
5.21(a)(1)	X.22(a)(1)	5.30(a)	X.31(a)
5.21(b)	X.22(c)	5.30(b)(1)	X.31(b)(1), (b)(2)
5.21(b)(1)-(b)(6)	X.22(c)(2)-(c)(4)	5.30(b)(2)	X.31(b)(3)
5.21(b)(7)	X.22(c)(5)	5.31(a)	-
5.21(b)(8)	-	5.31(b)	X.41(a)
5.21(b)(9)	-	5.31(c)	X.41(b), (c)
5.21(b)(10)	-	5.32(a)(1)	X.32(a)(1)
5.21(b)(11)	X.22(c)(6)	5.32(a)(2)	X.32(a)(2)
5.21(b)(12)	X.22(c)(7)	5.32(a)(3)	X.32(b)(1)
5.21(b)(13)	X.22(c)(8)	5.32(b)(1)	X.32(b)(1)
5.21(c)(1)-(c)(3)	X.22(d)	5.32(b)(2)	X.32(b)(1)
5.21(d)	X.22(e)	5.32(b)(3)	X.32(b)(2)
5.21(d)(1)	X.22(e)(1)	5.32(c)(1)	X.32(a)(3)
5.21(d)(2)	X.22(e)(2)	5.32(c)(2)	X.32(a)(4)
5.21(d)(3)	X.22(e)(3)	5.32(c)(3)	X.32(b)(3)
5.21(d)(4)	X.22(e)(4)	5.32(c)(4)	X.32(b)(4)
5.21(d)(5)	X.22(e)(5)	5.32(c)(5)	X.32(b)(6)
5.21(d)(6)	X.22(e)(6)	5.32(c)(6)	X.36(f)
5.21(d)(7)	-	5.33(a)	-
5.21(d)(8)	X.22(e)(6)	5.33(b)	X.34(a)
5.21(e)(1)	X.22(f)	5.33(c)	X.34(b)
5.21(e)(2)	-	5.34(a)	X.35(a)
5.21(e)(3)	X.22(j)(3)	5.34(b)	X.35(b)
5.21(f)(1)	X.22(g), (g)(5)	5.34(c)	X.42(a)(2)
5.21(f)(2)	X.22(g)(1)	5.34(d)	X.39(d)
5.21(f)(3)	X.22(g)(5)	5.34(e)	-
5.21(f)(4)	X.22(g)(4)	5.34(f)	X.35(c)
5.21(f)(5)	X.22(g)(2)	5.35(a)	X.36(a)
5.21(f)(6)	X.22(g)(3)	5.35(a)(1)	X.36(a)(1)
5.21(g)(1)	X.22(i)(1)	5.35(a)(2)	X.36(a)(2)
5.21(g)(2)	X.22(i)(2)	5.35(b)(1)	X.36(b)(1)
5.21(g)(3)	-	5.35(b)(2)	X.36(b)(2)
5.21(g)(4)	X.22(i)(3)	5.35(b)(3)	X.36(b)(3)
5.21(g)(5)	X.22(i)(4)	5.35(b)(4)	-
5.21(g)(6)	X.22(i)(5)	5.35(c)	-
5.21(g)(7)	X.22(i)(6)	5.35(d)	X.36(c)
5.21(h)(1)	X.22(j)(1)	5.35(e)	X.36(f)
5.21(h)(2)	X.22(j)(2)	5.35(f)	X.36(d)
5.21(h)(3)	X.22(j)(3)	5.35(g)	X.36(e)
5.21(h)(4)	X.22(j)(4)	5.36(a)	X.37

(Cont'd)

Present Section No.	Proposed Section No.	Present Section No.	Proposed Section No.
5.36(b)	X.37	5.41(e)	X.42(b)(5)
5.37(a)	X.38(a)	5.41(f)	X.42(b)(6)
5.37(b)(1)	X.38(b)(1)	5.41(g)	X.41(a)
5.37(b)(2)	X.38(b)(2)	5.45(a)	-
5.37(b)(3)	X.38(b)(3)	5.45(b)	X.51
5.37(b)(4)	X.38(b)(4)	5.45(c)	X.51
5.37(c)	X.38(c)	5.45(d)	-
5.37(d)	-	5.46(a)	X.52(a)
5.38(a)	X.39(a)	5.46(b)	X.52(a)
5.38(b)	X.39(b)	5.46(c)	X.52(b), (c)
5.38(c)	-	5.46(d)(1)	X.52(d)(1)
5.38(d)	X.39(c)	5.46(d)(2)	X.52(d)(1)
5.38(e)	X.22(i)(7)	5.46(d)(3)	X.52(d)(2)
5.39(a)	X.40(a)	5.46(e)	X.52(e)
5.39(a)(1)	X.40(a)(1)	5.50(a)	X.55(a)
5.39(a)(2)	X.40(a)	5.50(b)	X.55(b)
5.39(a)(3)	X.40(a)(2)	5.51(a)-(e)	X.56
5.39(a)(4)	-	5.52	X.55(c)
5.39(a)(5)	-	5.53	X.55(c)
5.39(a)(6)	X.40(a)(3)	5.60	X.61
5.39(a)(7)	X.40(a), (a)(4)	5.61	X.62
5.39(b)(1)	X.40(b)	5.61(a)	X.62(a)
5.39(b)(2)	X.40(b)	5.61(b)	X.62(b)
5.39(c)	X.40(c)	5.62(a)	X.63(a)
5.39(d)(1)	X.40(d)(1)	5.62(b)	X.63(b)
5.39(d)(2)	X.40(d)(1)	5.62(c)(1)	X.63(c)
5.39(d)(3)	-	5.62(c)(2)	X.63(c)
5.39(d)(4)	-	5.62(d)(1)	X.63(d)(1)
5.39(d)(5)	X.40(d)(2)	5.62(d)(2)	X.63(d)(2)
5.40(a)	X.33(a)	5.63	X.64
5.40(b)	X.33(b)	5.64(a)(1)	X.65(a)(1)
5.40(c)	X.33(c)	5.64(a)(2)	X.65(a)(3)
5.40(d)	X.33(d)	5.64(a)(3)	X.65(a)(4)
5.40(e)	X.33(e)	5.64(a)(4)	X.65(a)(5)
5.40(f)	X.33(f)	5.64(a)(5)	X.65(a)(6)
5.40(g)	-	5.64(a)(6)	X.65(a)(7)
5.40(h)	X.33(g)	5.64(a)(7)	X.65(a)(8)
5.41(a)(1)	X.42(a)(1)	5.64(a)(8)	-
5.41(a)(2)	X.42(a)(3)	5.64(a)(9)	-
5.41(a)(3)	X.42(a)(4)	5.64(b)	X.65(b)
5.41(a)(4)	X.42(a)(5)	5.64(c)	X.65(c)
5.41(a)(5)	X.42(a)(6)	5.64(d)	X.65(d)
5.41(a)(6)	X.42(a)(7)	5.64(e)	X.65(e)
5.41(b)(1)	X.42(b)(1)	5.64(f)	X.65(f)
5.41(b)(2)	X.42(b)(2)	5.64(g)	X.65(g)
5.41(b)(3)	X.42(b)(3)	5.70	X.45
5.41(b)(4)	X.42(b)(4)	5.71(a)	-
5.41(c)	-		
5.41(d)	-		

(Cont'd)

Present Section No.	Proposed Section No.
5.71(b)	-
5.71(c)	X.46(a)
5.72(a)	X.46(a)
5.72(b)	X.46(b)
5.72(c)	X.46(c)
5.72(d)	X.46(d)
5.73(a)(1)	X.47(a)
5.73(a)(2)	-
5.73(b)(1)	X.47(b)(1)
5.73(b)(2)	X.47(b)(2)
5.73(b)(3)	X.47(b)(3)
5.73(c)	X.47(c)
5.74(a)	-
5.74(b)	X.48
5.80	X.2
5.81	X.1

PROPOSALS OF THE DISTILLED SPIRITS
STANDARDS AND LABELING SURVEY COMMITTEE

FOR DISCUSSION PURPOSES ONLY

PART X--LABELING AND ADVERTISING OF DISTILLED SPIRITS

SUBPART A—SCOPE

Sec. X.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits. Nothing contained in this part shall be construed as relieving any person from conforming with the requirements of 26 CFR Part 175.

Sec. X.2 Territorial extent.

This part applies to the several states of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, but does not apply to distilled spirits for export.

SUBPART B—DEFINITIONS

Sec. X.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section.

Act. "Act" means the Federal Alcohol Administration Act.

Age. "Age" means the period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. In the case of American type whiskies defined in section X.22(c)(2) and (c)(3) the term "age" means the period the whisky has been kept in charred new oak barrels.

Assistant regional commissioner. "Assistant regional commissioner" shall mean the assistant regional commissioner (alcohol and tobacco tax) who is responsible to and functions under the direction and supervision of the regional commissioner.

Bottle. "Bottle" means any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

Brand label. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the distilled spirits, and any other label appearing on the same side of the bottle as such brand label.

Director. "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D. C. 20224.

Distilled spirits. "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy,gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, except that this term shall not include mixtures containing wine, bottled at 48° proof or less if the mixture contains more than 50 percent wine on a proof gallon basis.

Gallon. "Gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

Importer. "Importer" means the person making the original customs entry into the United States.

In bulk. "In bulk" means in containers having a capacity in excess of one wine gallon.

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

Permittee. "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

Person. "Person" means any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

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

Volatile congeners. "Volatile congeners" means those volatile materials in the original distillate consisting of esters, acids and higher alcohols.

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

SUBPART C -- STANDARDS OF IDENTITY FOR DISTILLED SPIRITS

Sec. X.21 Application of standards.

The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other non-industrial purposes.

Sec. X.22 The standards of identity.

Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows:

(a) Class 1; Neutral spirits or alcohol. "Neutral spirits" or "alcohol" are distilled spirits distilled from any material and containing less than 8 grams of volatile congeners per 100 liters at 100° proof, without distinctive character, aroma, taste, or color, and bottled at not less than 80° proof. Such spirits may be stored only in metal, porcelain, glass, or paraffin-lined wood, or other inert containers.

(1) "Vodka" is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be, when bottled, without distinctive character, aroma, taste, or color and containing less than 4 grams of volatile congeners per 100 liters at 100° proof, and bottled at not less than 80° proof.

(b) Class 2; Grain spirits. "Grain spirits" are distilled spirits, not conforming to the standard of identity for corn whisky, distilled from a fermented mash of grain and stored in oak containers for less than two years and bottled at not less than 80° proof.

(c) Class 3; Whisky. "Whisky" is an alcoholic distillate from a fermented mash of grain, saccharified by natural malt enzymes, stored in oak containers for not less than 2 years and bottled at not less than 80° proof (and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed in this section), except that

"corn whisky", including mixtures of corn whisky, may but need not be aged. Those types of whisky specified in subparagraphs (1) to (5) shall be deemed "American type" whiskies.

(1) "Light American whisky" or "American light whisky" is whisky produced in the United States and containing less than 100 grams of volatile congeners per 100 liters at 100° proof, and aged in oak barrels of a capacity not exceeding 60 wine gallons, and includes mixtures of such whisky and other whisky for which no specific standards of identity are prescribed in this section for such mixtures.

(2) "Straight bourbon whisky" is whisky distilled in the United States from a fermented mash of whole grain of which not less than 51 percent is corn grain, containing not less than 140 grams of volatile congeners per 100 liters at 100° proof, reduced to not more than 125° proof prior to storage, and aged for not less than 4 years in charred new oak barrels of a capacity not exceeding 60 wine gallons, and includes mixtures of such whisky: Provided, That if such whisky is aged for less than 4 years it shall be designated "bourbon whisky",

(3) "Straight whisky" is whisky distilled from a fermented mash of whole grain, containing not less than 140 grams of volatile congeners per 100 liters at 100° proof, reduced to not more than 125° proof prior to storage, and aged for not less than 4 years in charred new oak barrels of a capacity not exceeding 60 wine gallons and includes mixtures of straight whiskies; Provided, That if 51 percent or more of grain of one kind (other than corn) is used, the designation may be qualified by the name of such grain, e.g., "straight rye whisky," "straight malt whisky," and if such whiskies are aged for less than 4 years the word "straight" may not appear as a part of the class and type designation.

(4) "Corn whisky" is whisky distilled from a fermented mash of whole grain of which not less than 80 percent is corn grain, containing not less than 140 grams of volatile congeners per 100 liters at 100° proof, reduced to not more than 125° proof and stored (except when bottled without storage in oak barrels) in uncharred oak barrels or reused oak barrels of a capacity not exceeding 60 wine gallons, and not subjected in any manner to treatment with charred wood, and also includes mixtures of such whiskies. "Corn whisky" shall not be designated as "straight".

(5) "Blended whisky" (whisky--a blend) is a mixture which contains at least 20 percent by volume of 100° proof straight whisky and, separately or in combination, whisky, grain spirits, or neutral spirits, if such mixture at the time of bottling is not less than 80° proof.

(6) "Scotch Whisky" is a distinctive product of Scotland wholly manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom and containing no distilled spirits less than 3 years old: Provided, That if such product is a mixture of distilled spirits, such mixture may be designated "blended Scotch whisky" (Scotch whisky--a blend). "Scotch whisky" shall not be designated as "straight".

(7) "Irish whisky" is a distinctive product of Ireland wholly manufactured either in the Irish Free State or in Northern Ireland in compliance with their laws regulating the manufacture of Irish whisky for home consumption and containing no distilled spirits less than 3 years old: Provided, That if such product is a mixture of distilled spirits, such mixture may be designated "blended Irish whisky (Irish whisky--a blend). "Irish whisky" shall not be designated as "straight."

(8) "Canadian whisky" is a distinctive product of Canada wholly manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada and containing no distilled spirits less than 2 years old: Provided, That if such product is a mixture of distilled spirits, such mixture may be designated "blended Canadian whisky" (Canadian whisky--a blend). "Canadian whisky" shall not be designated as "straight."

(d) Class 4; Gin. "Gin" is a product obtained by the original distillation from mash, or by redistilling or mixing distilled spirits, with or over juniper berries and other aromatics customarily used in the production of gin, or with or over extracts derived from infusions, percolations, or maceration of such materials, and deriving its main characteristic flavor from juniper berries and reduced at time of bottling to not less than 80° proof; and includes mixtures solely of such distillates. Gin produced by original distillation from mash or by redistillation of distilled spirits may be further designated as "distilled."

"Dry gin" (London dry gin), "Geneva gin" (Hollands gin), and "Old Tom gin" (Tom gin) are types of gin known under such designations.

(e) Class 5; Brandy. "Brandy" is an alcoholic distillate, or a mixture of distillates, obtained solely from the fermented juice, mash or wine of fruit, or from the residue thereof, containing not less than 8 grams of volatile congeners per 100 liters at 100° proof, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the following standards shall be

designated as "brandy," and such designation shall be immediately followed by a truthful and adequate statement of composition. The word "straight" may appear as a part of the designation if no coloring, flavoring, or blending materials have been added.

(1) "Fruit brandy" is brandy distilled solely from the juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine

(i) having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, not in excess of 0.20 gram per 100 cubic centimeters (20° C.),

(ii) with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation).

and shall include mixtures of such brandy with not more than 30 percent (calculated on a proof basis) of lees brandy. Fruit brandy, derived from grapes, shall be designated as "grape brandy" or "brandy". Fruit brandy, other than grape brandy, derived exclusively from one variety of fruit, shall be designated by the word "brandy" qualified by the name of such fruit (e.g. "peach brandy"), except that "apple brandy" may be designated "applejack". Fruit brandy derived from more than one variety of fruit shall be designated as "fruit brandy" qualified by a truthful and adequate statement of composition.

(2) "Cognac" or "Cognac (grape) brandy," is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French government.

(3) "Dried fruit brandy," is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as "raisin brandy." Other brandies defined in this paragraph shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word "dried."

(4) "Lees brandy" is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as "lees brandy," qualified by the name of the fruit from which such lees are derived.

(5) "Pomace brandy," or "marc brandy," is brandy distilled from the skin and pulp of sound, ripe grapes, citrus or other

fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as "pomace brandy," or "marc brandy", qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as "grappa" or "grappa brandy."

(6) "Substandard brandy" shall bear as a part of its designation the word "substandard," and shall include:

(i) Any brandy distilled from juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.20 gram per 100 cubic centimenters (20° C.); measurements of volatile acidity under this paragraph shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace or residue, or which shows in the finished product any taste, aroma or characteristic associated with products distilled from such material.

(iii) Any brandy (other than lees brandy or pomace brandy) distilled wholly or in part from the residue of fruit or wine.

(f) Class 6; Rum. "Rum" is any alcoholic distillate from the fermented juice of sugarcane, sugarcane syrup, sugarcane molasses, or other sugarcane byproducts, containing not less than 8 grams of volatile congeners per 100 liters at 100° proof, and bottled at not less than 80° proof; and includes mixtures solely of such distillates. The word "straight" may appear as a part of the designation if no coloring, flavoring, or blending materials have been added.

(g) Class 7; Cordials and Liqueurs. Cordials and liqueurs are products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials, and containing sugar, dextrose or levulose, or a combination thereof, in an amount not less than 5 percent by weight of the finished product.

(1) "Sloe gin" is a cordial or liqueur with the main characteristic flavoring derived from sloe berries.

(2) "Rye liqueur", "bourbon liqueur" (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof basis, of the distilled spirits used are, respectively, rye or bourbon whisky, or straight rye or straight bourbon whisky, with or without the addition of natural flavoring materials, and which

possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2 1/2 percent limitation provided in section X.23 for coloring, flavoring and blending ingredients.

(3) "Rock and rye", "rock and bourbon", "rock and brandy", "rock and rum" are liqueurs, bottled at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof basis, of the distilled spirits used are, respectively, rye or bourbon whisky, or straight rye or straight bourbon whisky, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum, respectively; with or without the addition of rock candy, fruit, fruit juices or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2 1/2 percent limitation provided in section X.23 for harmless coloring, flavoring and blending ingredients.

(4) The designation of a cordial or liqueur may include the word "dry" if the sugar, dextrose or levulose are less than 10 percent by weight of the finished product.

(5) Cordials and liqueurs shall not be designated as "distilled" or "compound" and shall not contain synthetic or imitation flavors.

(h) Class 8; Flavored vodka, flavored whisky, flavored gin, flavored brandy and flavored rum. "Flavored vodka," "flavored whisky," "flavored gin," "flavored brandy," and "flavored rum" are vodka, whisky (identified as to type), gin, brandy (identified as to type), and rum, to which has been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 70° proof. If wine is used in excess of 2 1/2 percent by volume of the distilled spirits the amount in percentage by volume, and the kind thereof, must appear as a part of the designation.

(i) Class 9; Imitations. Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

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

(2) Any class or type of distilled spirits (other than distilled spirits required under section X.35 to bear a distinctive or fanciful name and a truthful and adequate statement of

composition) to which has been added synthetic flavors;

(3) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate, or infer, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

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

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

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

(7) Any type of whisky to which beading oil has been added.

(j) Class 10; Geographical designations.

(1) Geographical names for distinctive types of distilled spirits (other than names found by the Director under subparagraph (2) to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word "American" or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, Swedish punch. Geographical names for distinctive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type. Such geographical names for distinctive types of distilled spirits shall not be used as the name or a part of the name for distilled spirits not of that distinctive type.

(2) Only such geographical names for distilled spirits as the Director finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic, shall be deemed to have become generic. The following are examples of distinctive types of distilled spirits with geographical names that have become generic: London dry gin, Geneva (Hollands) gin, Tequila.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. The following are examples of geographical names for distilled spirits that are not generic and are not names for distinctive types of distilled spirits: Cognac, Armagnac, Jamaica rum, Puerto Rico rum, Demerara rum, American light whisky, light American whisky.

(4) The words "Scotch", "Scots", "Highland" or "Highlands" and similar words connoting, indicating, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(k) Class 11; Products without geographical designations but distinctive of a particular place.

(1) The whiskies of the types specified in paragraph (c)(2) - (5) of this section are distinctive products of the United States, and if produced in a foreign country, shall be designated by the applicable designation prescribed in such paragraph, together with the words "produced (distilled, blended) in _____", the blank to be filled in with the name of the foreign country: Provided, That the word "bourbon" shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country shall not be given to the product of any other place or country unless the designation for such product includes an adjective such as "American" or the like, clearly indicating the true place of production. This paragraph shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that they have become generic, provided the approval of the Director is obtained prior to using such designation. An example of a product which is a distinctive product of a particular place or country and which has not become generic is the following: Habanero. Examples of products which have lost their geographical significance to such an extent that they are no longer distinctive products of a

particular place or country, but have become generic, are the following: Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

Sec. X.23 Alteration of class and type; harmless coloring, flavoring and blending materials.

(a) Except as otherwise provided in this section, the addition of any coloring, flavoring or blending materials whatsoever, to any class and type of distilled spirits shall be deemed to alter the class and type thereof. If the class or type of any distilled spirits shall be so altered, and if there is no class or type designation for the product as so altered, either specified in section X.22 or in accordance with trade understanding, such distilled spirits shall be designated with a distinctive or fanciful name together with a truthful and adequate statement of composition in accordance with section X.35. There may be added to any class or type of distilled spirits, without changing the class or type thereof, (1) such harmless coloring, flavoring or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (2) harmless coloring, flavoring or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring or blending materials do not total more than 2 1/2 percent by volume of the finished product.

(b) "Harmless coloring, flavoring and blending materials" shall not include (1) any material which would render the product to which it is added an imitation, or (2) any material whatsoever in the case of neutral spirits, whisky stored in new charred oak barrels, or corn whisky, or (3) any material, other than caramel and sugar, in the case of Cognac brandy.

(c) The removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids and higher alcohols or more than 25 percent of the soluble color from any type of whisky shall be deemed to alter the type. A product so treated shall be designated whisky.

(d) Nothing in this section shall be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored vodka, flavored whisky, flavored gin, flavored brandy and flavored rum, or as authorizing any product which is defined in section X.22, Class 9, as an imitation to be otherwise designated.

SUBPART D - LABELING REQUIREMENTS FOR DISTILLED SPIRITS

Sec. X.31 General.

(a) Application. No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly

or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any distilled spirits in bottles, unless such packages are marked, branded, or labeled in conformity with sections X.31 - X.42.

(b) Alteration of labels. It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except

(1) as authorized by Federal law,

(2) that the assistant regional commissioner or the internal revenue officer, if any, assigned to the premises may, on application, permit additional labeling or relabeling of bottled distilled spirits with labels covered by certificates of label approval which comply with the requirements of this part and with State law,

(3) that there may be added to the bottle, after removal from customs custody or from the bottling premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof, and containing no references whatever to the characteristics of the product.

Sec. X.32 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name.

(2) Class and type, in accordance with section X.35.

(3) Alcoholic content, in accordance with section X.37.

(4) Net contents, in accordance with section X.38.

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

(1) Name and address, in accordance with section X.36.

(2) In the case of imported spirits, the country of origin, in accordance with section X.36.

(3) Coloring or flavoring, in accordance with section X.39.

(4) 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 section X.39.

(5) Percentage of grain spirits, when required, in accordance with section X.40.

(6) A statement of age or age and percentage, when required, in accordance with section X.40.

(7) Percentage of distilled spirits derived from sources other than the fermentation of food products and name of commodity from which distilled.

Sec. X.33 Additional requirements.

(a) Contrasting background. Labels shall be so designed that the statements required by sections X.31 - X.42 are readily legible under ordinary conditions, and such statements shall be on a completely contrasting background.

(b) Size of type. Statements required by sections X.31 - X.42 shall appear horizontally on labels and shall be in script, type, or printing not smaller than 8-point Gothic caps and shall be separate and apart from any other descriptive or explanatory matter, except that, in the case of labels on bottles of less than one-half pint capacity, such script, type, or printing may be smaller than 8-point Gothic caps if readily legible under ordinary conditions. Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(c) English language. The requirements of sections X.31 - X.42 shall be stated in the English language, except that for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are stated in the English language.

(d) Location of label. Labels shall not obscure government stamps or be obscured thereby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other Treasury regulations.

(e) Labels firmly affixed. Labels bearing the mandatory information required by sections X.31 - X.42, which are not an integral part of the bottle, shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) Additional information on labels. Labels may contain information other than the mandatory label information required by sections X.31 - X.42 provided such information does not conflict with, nor in any manner qualify, statements required by regulations promulgated under the Act.

(g) Contents of bottles. A complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed shall be submitted, on request, to the Director or the assistant regional commissioner.

Sec. X.34 Brand names.

(a) Misleading brand names. No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) Trade name of foreign origin. This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935: Provided, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

Sec. X.35 Class and type.

(a) The class and type of distilled spirits shall be stated in conformity with section X.22 if defined therein, unless the product does not possess the taste, aroma, and characteristics generally attributed to such class and type. If the product does not conform to any one of the prescribed standards of identity, it shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in subparagraph (b)(2)) followed by a truthful and adequate statement of composition. The word "cordial" or "liqueur" need not be stated in the case of cordials and liqueurs unless the Director finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) In the case of products designated in accordance with trade and consumer understanding

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

(2) no statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) In the case of any of the types of whisky defined in section X.22, Class 3, which contains any whisky or whiskies produced in a country other than that indicated by the type designated, there shall be stated on the brand label the percentage of such whisky and the country of origin thereof. In the case of mixtures of whisky, not conforming to any type designation in section X.22, Class 3, the components of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation "whisky" a truthful and adequate statement of the composition of the product.

Sec. X.36 Name and address.

(a) "Bottled by". On labels of domestic distilled spirits there shall be stated the phrase "bottled by", immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may be stated immediately following the name (or trade name) of such bottler the addresses of such plants.

(1) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits bottled in bond under section 5233, Internal Revenue Code) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

(2) Where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "bottled by," followed by the bottler's name (or trade name) and address, the phrases "blended by," "made by," "prepared by," "manufactured by," or "produced by" (whichever may be appropriate to the act of rectification involved) followed by the name (or trade name), and the address (or addresses) of the rectifier.

(b) "Imported by".

(1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words "imported by," "imported exclusively by," or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation by a person other than the person responsible for the importation, there shall be stated, in the manner and form prescribed above, the name and address of the person responsible for the importation, and in addition thereto the words "bottled by," and immediately thereafter, the name of the bottler and the place where bottled, except that there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of the person responsible for the importation, immediately preceded by the phrase "imported by and bottled in the United States for" (or a similar appropriate phrase).

(3) On labels of imported distilled spirits bottled after importation by the person responsible for the importation, there shall be stated the words "imported and bottled by," "imported and bottled exclusively by," or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person's principal place of business.

(c) Post-office address. The "place" stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, firm or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) Country of origin. On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form "Product of _____" the blank to be filled in with the name of the country of origin.

(e) Trade names. The trade name of any permittee appearing upon any label shall be identical with the name in which his basic permit is issued by the assistant regional commissioner.

(f) State of distillation. The state of distillation of whisky shall appear on the brand label in all instances where the Director finds that without such statement the label is misleading as to the state of actual distillation.

Sec. X.37 Alcoholic content.

The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume for cordials, liqueurs, and gin fizzes, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

Sec. X.38 Net contents.

(a) The net contents of distilled spirits for which a standard of fill is prescribed in section X.47 shall be stated in the same manner and form in which such standard of fill is set forth in said section.

(b) The net contents of distilled spirits for which no standard of fill is prescribed in section X.47 shall be stated as follows:

(1) If one pint, one quart, or one gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(c) All fractions shall be expressed in their lowest denomination.

(d) The addition of any qualifying words or phrases to statements of net contents is prohibited.

Sec. X.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) 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 grain"; or "_____% neutral spirits distilled from cane products"; or "_____% neutral spirits distilled from fruit"; or "_____% grain (cane products), (fruit) neutral spirits."

(b) 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."

(c) The words "artificially colored" shall be stated on the label of any distilled spirits containing synthetic or natural (other than caramel) materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that

(1) if no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color;

(2) if no coloring material other than those certified as suitable for use in foods by the Food and Drug Administration have been added, there may be stated in lieu of the words "artificially colored", the words "certified color added".

If no coloring material other than caramel has been added, there shall be stated the words "colored with caramel," or a substantially similar statement, but no such statement is required for the use of caramel in any brandy or rum or in any type of whisky other than whisky stored in charred new oak barrels or corn whisky.

(d) The words "colored and flavored with wood chips" shall be stated as a part of the class and type designation for whisky and brandy so treated. Corn whisky may not be treated with charred wood chips.

Sec. X.40 Statements of age and percentage.

(a) Statements of age and percentage for whisky. In the case of domestic or foreign whisky (whether or not mixed or blended) all of which is four years or more old, statements of age are optional. As to all other whiskies there shall be stated the following:

(1) In the case of whisky (mixed or unmixed), except blended whisky containing neutral spirits and/or grain spirits, the age of the youngest whisky. The age statement shall read substantially as follows: "_____ years old."

(2) In the case of blended whisky containing neutral spirits and/or grain spirits, the percentage by volume of neutral spirits in the form required by section X.39(a), the percentage by volume of grain spirits, the percentage by volume of straight whisky and other whisky, and the age of the straight whisky (the youngest if two or more) and the age of such other whisky (the youngest if two or more). The age and percentage statement for straight whisky and other whisky shall be stated in immediate conjunction with the neutral spirits or the grain spirits statement and shall read substantially as follows:

(i) If only one straight whisky and no other whisky is contained in the blend: "_____ percent straight whisky _____ years old."

(ii) If more than one straight whisky and no other whisky is contained in the blend: "____ percent straight whisky ____ years or more old." The age blank shall be filled in with the age of the youngest straight whisky.

(iii) If only one straight whisky and one other whisky is contained in the blend: "_____percent straight whisky _____ years old, _____percent whisky _____years old."

(iv) If more than one straight whisky and more than one other whisky is contained in the blend: "_____percent straight whiskies ____years or more old, ____percent whiskies _____years or more old." The age blanks shall be filled in with the ages of the youngest straight whisky and the youngest other whisky.

(3) In the case of imported American type whiskies (as defined in section X.22, Class 11) the labels shall state the ages and percentages in the same manner and form as is required for the same type of whisky produced in the United States.

(4) Optional age statements shall appear in the same form as required age statements.

(b) Statements of age for rum and brandy. Age may, but need

not, be stated on labels of rums and brandies, except that an appropriate statement with respect to age shall appear on the brand label in case of brandy (other than fruit brandy which is not customarily stored in oak containers; e.g. Kirschwasser, Framboise, Pisco) not aged for a period of two years. If age is stated, it shall be substantially as follows: "_____years old"; the blank to be filled in with the age of the youngest distilled spirits in the product.

(c) Other distilled spirits. Age, maturity, or similar statements or representations as to neutral spirits, grain spirits, gin, liqueurs, cordials, vodka, cocktails, gin fizzes, highballs, bitters, and specialties are misleading and are prohibited from being stated on any label.

(d) Miscellaneous age representations. (1) Age shall not be understated more than 20 percent except that where distilled spirits have been blended pursuant to paragraphs (a) and (b) the age of the youngest spirits in the blend is required to be stated. Age shall not be overstated.

(2) If any age, maturity, or similar representation is made relative to any distilled spirits (except neutral spirits, grain spirits, gin, liqueurs, cordials, vodka, cocktails, gin fizzes, highballs, and bitters), the age shall also be stated on all labels where such representation appears, and in a manner substantially as conspicuous as such representation: Provided, That the use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be an age representation: And provided further, That the labels of whiskies and brandies not required to bear a statement of age, and rum aged for not less than four years, may contain general inconspicuous age, maturity or similar representations without the label bearing the optional age statement.

Sec. X.41 Bottle cartons, booklets and leaflets.

(a) General. An individual covering, carton or other container, of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by sections X.31 - X.42 on labels.

(b) Sealed opaque cartons. If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than shipping containers), such coverings, cartons, or other containers must bear all mandatory label information.

(c) Other cartons. If an individual covering, carton or other container of the bottle used for sale at retail (other than a shipping container), which is readily removable and not sufficiently transparent to permit visibility of the mandatory label information, displays any written or printed material, other than the brand name and the name and address of the manufacturer, bottler, or importer (omitting any reference to the function performed by the permittee), such covering, carton, or other container must bear all mandatory label information.

Sec. X.42 Prohibited practices.

(a) Statements on labels. Bottles, or labels on bottles, containing distilled spirits, 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, other than required information, as to the alcoholic components of a product, unless such statement includes the name and percentage of all the alcoholic components.

(3) Any statement that is disparaging of a competitor's products.

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

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

(6) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(7) 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 subparagraph 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 25, 1935.

(b) Miscellaneous. (1) No label 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 this or any other Government, shall state or indicate that the distilled spirits contained in the labeled bottle are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, or municipal law or regulations, 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) 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 the 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 such distilled spirits were in fact bottled in bond under the Bottling in Bond Act of the United States.

(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 such distilled spirits, as to proof and age, and in all other respects, meet the requirements applicable to distilled spirits bottled for domestic consumption, under the Bottling in Bond Act of the United States (26 U.S.C. 5205, 5233) 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 subparagraph 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) Labels shall not contain any statement, design, device, or pictorial representation which the Director 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.

(6) Labels shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

SUBPART E--STANDARDS OF FILL FOR BOTTLED DISTILLED SPIRITS

Sec. X.45 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with sections X.45 - X.48.

Sec. X.46 Standard liquor bottles.

(a) General. A standard liquor bottle shall be one so made and formed as not to mislead the purchaser and shall be so filled as not to mislead the purchaser. An individual carton or other container of a bottle shall not be so designed as to mislead purchasers as to the size of the bottles.

(b) Size. A liquor bottle shall be held to be so filled as to mislead the purchaser if the bottle holds distilled spirits (other than cordials, liqueurs and specialties) in an amount other than one of the standards of fill in effect therefor under section X.47.

(c) Headspace. A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(d) Design. A liquor bottle shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

Sec. X.47 Standards of fill.

(a) The standards of fill for all distilled spirits, whether domestically manufactured, domestically bottled, or imported, shall be the following, subject to the tolerances allowed in this section:

1 gallon	1 pint
1/2 gallon	4/5 pint
1 quart	1/2 pint
4/5 quart	1/8 pint
1/10 pint	

(b) The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles so as to be of uniform capacity: Provided, That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles

to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

Sec. X.48 Cordials and liqueurs, and specialties.

Sections X.45 - X.47 shall not apply to cordials and liqueurs, and cocktails, highballs, gin fizzes, bitters, and such other specialties as are specified by the Director.

SUBPART F—REQUIREMENTS FOR WITHDRAWAL FROM CUSTOMS CUSTODY OF BOTTLED IMPORTED DISTILLED SPIRITS

Sec. X.51 Label approval and release.

Bottled distilled spirits shall not be released from customs custody for consumption unless the original (or photoprint or other facsimile thereof) of a certificate of label approval, Form 1649,* covering the labels on the bottle, issued by the Director pursuant to application on such form, shall have been deposited with the appropriate customs officer at the port of entry.

Sec. X.52 Certificates of age and origin.

(a) Scotch, Irish, and Canadian whiskies, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Governments, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign governments for spirits intended for home consumption. In addition, a duly authorized official of the appropriate foreign government must certify to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been in oak containers.

(b) Brandy (other than fruit brandies of a type not customarily stored in oak containers) or Cognac, imported in bottles, shall not be released from customs custody for consumption unless accompanied

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*Copies of Form 1649 may be secured from the assistant regional commissioners.

by a certificate issued by a duly authorized official of the appropriate foreign country certifying to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in other type containers, the brandy must be accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying to such storage. Cognac, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate issued by a duly authorized official of the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(c) If the label of any rum, imported in bottles, contains any statement of age, the rum shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government, certifying to the age of the youngest rum in the bottle. The age certified shall be the period during which, after distillation and before bottling, the rum has been in oak containers.

(d) Whisky (as defined in section X.22(c)) and American type whiskies, imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(1) In the case of whisky and the distinctive types of whisky, except blended whisky, (i) the class and type thereof, (ii) the volatile congener content of the American type whiskies at the time of distillation, (iii) that no neutral spirits or grain spirits (or other whisky in the case of straight whisky) has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (iv) the age of the whisky, (v) the type of container in which such age was acquired (whether new or reused; also whether charred or uncharred), and (vi) the size of the containers in which American type whiskies were aged;

(2) In the case of blended whisky, (i) the percentage of straight whisky used in the blend, (ii) the volatile congener content of the straight whisky at time of distillation, (iii) the percentage of other whisky, if any, in the blend, (iv) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, (v) the percentage of grain

spirits, if any, in the blend, (vi) the age of the straight whisky, and the age of the other whisky, if any, in the blend, (vii) the type of containers in which such age or ages were acquired (whether new or reused; also whether charred or uncharred), and (viii) the size of the containers in which the whiskies were aged.

(e) Distilled spirits (other than Scotch, Irish and Canadian whiskies, and Cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

SUBPART G—REQUIREMENTS FOR APPROVAL OF LABELS OF DOMESTICALLY BOTTLED DISTILLED SPIRITS.

Sec. X.55 Certificates of label approval.

(a) Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (b), unless the proprietor possesses a certificate of label approval, Form 1649, covering the labels on the bottle, issued by the Director pursuant to application on such form.

(b) Any bottler of distilled spirits shall be exempt from the requirements of paragraph (a) and section X.56 if he possesses a certificate of exemption from label approval, Form 1650, issued by the Director pursuant to application on Form 1648* showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

(c) Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the Director) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to a duly authorized officer of the United States Government.

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*Copies of Form 1648 may be secured from the assistant regional commissioners.

Sec. X.56 Certificates of age and origin.

Distilled spirits imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by section X.52 for like distilled spirits imported in bottles.

SUBPART H—ADVERTISING OF DISTILLED SPIRITS.

Sec. X.61. Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio 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 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 sections X.61 - X.65: Provided, That such sections 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, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

Sec. X.62 Definition.

As used in sections X.61 - X.65, the term "advertisement" includes any advertisement of distilled spirits through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle, or any written, printed, graphic, or other matter accompanying the bottle, which constitutes a part of the labeling under sections X.31 - X.42.

(b) Any editorial or other reading matter in any periodical or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

Sec. X.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) Alcoholic content. The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume for cordials and liqueurs, and gin fizzes, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

(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 grain"; or "_____% neutral spirits distilled from cane products"; or "_____% neutral spirits distilled from fruit"; or "_____% grain, (cane products), (fruit), neutral 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) Percentage of grain spirits. The percentage of grain spirits used in the blending or rectification of a distilled spirits product (other than cordials, liqueurs, and specialties) shall be stated.

(f) Domestically bottled imported distilled spirits. In the case of domestically bottled imported distilled spirits, there shall be stated the words "Bottled in the United States" or a similar appropriate statement.

Sec. X.64 Lettering.

Statements required under sections X.61 - X.65 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

Sec. X.65 Prohibited statements.

(a) Restrictions. An advertisement of distilled spirits 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, other than required information, as to the alcoholic components of a product, unless such statement includes the name and percentage of all the alcoholic components.

(3) Any statement that is disparaging of a competitor's products.

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

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

(6) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

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

(8) 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 sections X.31 - X.42, upon labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are required to appear upon the label.

(b) Statements inconsistent with labeling. The advertisement shall not contain any statement concerning a brand or lot of distilled spirits which is prohibited from appearing on the label or which is inconsistent with any statement on the label thereof.

(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 sections X.31 - X.42. An advertisement for any whisky or brandy which is not required to bear a statement of age on the label or an advertisement for any rum which has been aged for not less than 4 years may, however, contain general inconspicuous age, maturity or other similar representations even though the optional age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) Curative and therapeutic effects. The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(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 provision of this subpart 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 which the Director 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.