



# INDUSTRY CIRCULAR

DEPARTMENT OF  
THE TREASURY  
Bureau of Alcohol, Tobacco and Firearms  
Washington, D. C. 20226  
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LABEL DISCLOSURE FOR  
BRANDY TREATED WITH WOOD  
(27 C.F.R. 5.39(c))

Distilled Spirits Plant Proprietors, Importers and Others  
Concerned:

Purpose. The purpose of this circular is to advise industry members of a forthcoming ATF ruling relating to the labeling of brandy treated with wood (27 C.F.R. 5.39(c)). The ruling reads substantially as follows:

The Bureau of Alcohol, Tobacco and Firearms (ATF) has been asked whether brandy treated with wood, in forms other than chips or slabs, at any time during the production process, is subject to the requirements of 27 C.F.R. 5.39(c). The Bureau has also been asked whether brandy produced with an ingredient treated with wood is subject to the provisions of section 5.39(c), and whether Cognac, in particular, treated with wood is subject to the provisions of § 5.39(c).

Background. Section 5(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Bureau to issue regulations intended to prevent deception of the consumer, and to provide the consumer with adequate information as to the identity and quality of the product.

Regulations which implement the provisions of section 5(e), as they relate to distilled spirits, are set forth in 27 C.F.R. Part 5. Section 5.39(c) requires label disclosure for brandy (and whisky) treated with wood. Specifically, section 5.39(c) reads as follows:

Treatment with wood. The words "colored and flavored with wood \_\_\_\_\_ (insert chips, slabs, etc., as appropriate)" shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation or storage, other than through contact with the oak container.

Since section 5.39(c) is included as mandatory information under section 5.32 (§ 5.32(b)(4)), the statement "colored and flavored with wood \_\_\_\_\_" must comply with the requirements of section 5.33 as to location, size of type, etc.

The first regulation requiring label disclosure for distilled spirits treated with wood was issued in 1938 and applied only to whisky. In 1941, the regulations were amended to extend the disclosure requirement to brandy treated with wood. According to the rulemaking record, wood (oak) chips impart character (i.e., flavor, aroma, etc.) to the product and, therefore, label disclosure was considered necessary and warranted, to inform the consumer that not all of the brandy's (whisky's) character was derived from aging in the oak barrel.

Further, the record indicates that the regulation was intended to apply to brandy or whisky treated with wood, in any form, at any point in the production process, up to and including the time of bottling.

Recently, it has come to the Bureau's attention that confusion exists among some brandy producers, both domestic and foreign, as to when the provisions of § 5.39(c) apply. Such producers are treating their brandy with wood directly, through the use of wood in forms other than chips or slabs, such as extracts, powders, infusions, etc., and indirectly, by using an ingredient in the production of the brandy which has been previously treated with wood. For example, under section 5.23 wine may be used, within prescribed limitations, in the production of a brandy. The wine, however, may have been treated with wood, either charred or uncharred. In any event, brandy produced with wine which has been treated with wood must comply with the requirements of section 5.39(c).

Confusion also exists among producers of Cognac who believe the provisions of § 5.39(c) do not apply to Cognac, since it is a distinct product of France. The standard of identity for Cognac in section 5.22(d)(2) provides that Cognac 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." Although Cognac has a specific standard of identity from the more general standard for brandy, and is produced in accordance with French law and regulations, it is still subject to the mandatory labeling information listed in section 5.32. In that regard, § 5.32(b)(4) states that coloring or flavoring in accordance with section 5.39 is mandatory label information. Thus, Cognac which has been treated with wood, either directly or indirectly, must be labeled with the disclosure statement required by § 5.39(c).

Held, brandy treated with wood in any manner or form, either directly or indirectly, at any point in the production process, up to and including the time of bottling, must comply with the requirements of 27 C.F.R. 5.39(c).

Held further, existing certificates of label approval for brandies which do not meet the requirements of this ruling will expire at midnight, December 31, 1987. Then those particular certificates should be surrendered to the Bureau for cancellation. Applications for certificates of label approval received on or after September 1, 1987, must meet the requirements herein discussed.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to: Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

  
Director

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