

§ 101.17 [Corrected]

3. On page 20493, in § 101.17(g)(2), in the first column, in the third line, "(g)(7)" should read "(g)(6)".

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98-12899 Filed 5-14-98; 8:45 am]

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DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 4**

[Notice No. 861]

RIN 1512-AB70

Net Contents Statement on Wine Labels (95R-054P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Based on a petition it has received, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml). ATF believes that the proposed regulations provide industry members with greater flexibility in labeling their wines, while ensuring the consumer is adequately informed as to the net contents of the product.

The proposed amendments are part of the Administration's efforts to reinvent government by reducing regulatory burdens and streamlining requirements.

DATES: Written comments must be received on or before August 13, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; ATTN: Notice No. .

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, D.C. 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:**Background**

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), vests broad authority in the Director of ATF, as the delegate of

the Secretary of the Treasury, to prescribe regulations intended to prevent deception of the consumer and to provide the consumer with adequate information as to, among other things, the net contents of the product. Regulations which implement the provisions of section 105(e), as they relate to wine, are set forth in title 27, Code of Federal Regulations (CFR), part 4.

Section 4.32(b) provides, in part, that a statement of net contents must appear on the label of all containers of wine in accordance with § 4.37. Section 4.37 provides that the net contents of wine for which a metric standard of fill is prescribed must be stated on the label in the same manner and form as set forth in the standard of fill. The authorized metric standards of fill for American and imported wine, for sale in interstate commerce within the United States, are set forth in § 4.73 as follows:

3 liters
1.5 liters
1 liter
750 milliliters
500 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

As provided in § 4.37(a), the net contents of wine for which no standard of fill is prescribed, e.g., sake, must be stated in liters and in decimal portions of a liter for quantities larger than one liter, and in milliliters for quantities of less than one liter.

Pursuant to § 4.32(b)(2), if the net contents of the wine is an authorized standard of fill, e.g., 750 milliliters, the net contents statement may appear on any label affixed to the container. If the net contents is a standard of fill other than an authorized standard of fill, e.g., 720 milliliters, the net contents statement must appear on a label affixed to the front of the container.

Since the regulations show "ml" as an abbreviation for milliliter (§ 4.37(a)(2)), that abbreviation may be used in lieu of milliliter, where required. ATF's policy is that the word liter may be abbreviated as "L" or "l" (under certain circumstances), or it may appear in a shortened form such as "Lt," provided such shortened form is not likely to mislead or confuse the consumer.

Finally, § 4.37 provides that the net contents need not be stated on the label if it is legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director on the side, front, or back of the container in an unobscured location.

Discussion

Metric standards of fill for wine were first prescribed in Treasury Decision (T.D.) ATF-12 (39 FR 45216, December 31, 1974; corrected at 40 FR 1240, January 7, 1975), and became mandatory on January 1, 1979. In order to avoid confusion among consumers, the final rule required metric net contents to be expressed in liters and decimal portions thereof for quantities larger than one liter (e.g., 1.5 liters) and in milliliters for quantities of less than one liter (e.g., 750 milliliters). ATF noted in the preamble of the final rule that statements of net contents in liters or milliliters would standardize the manner by which metric net contents are to be stated while also reflecting the degree of accuracy necessary to measure the content of wine bottles. ATF's decision to express the net contents in milliliters for wine in containers of less than one liter was based, in part, on testimony presented at the hearing which preceded T.D. ATF-12. A representative testifying on behalf of the American National Metric Council made the following comments:

For everyday use the Metric Practice Committee of the American National Metric Council recommends milliliter—ml—as the only submultiple of liter. . . . The important thing is to avoid the confusion of an excessive variety of submultiples, which may cause errors in communication. These other submultiples, which have been used in various parts of the world, would be a deciliter—dl, a centiliter—cl. For American usage, however, we are recommending only milliliter—ml.

Containers for wine may bear statements of net contents in addition to the required metric net contents statement provided such optional statements represent an equivalent volume and are not in any way misleading to the consumer. For example, if the label on a wine container shows the net contents in accordance with § 4.73 as "750 ml," an additional statement such as "75 cl," ".75 L," "25.4 fl. oz.," etc., may appear elsewhere on the container provided its appearance is not in a manner which is misleading to the consumer.

Petition

ATF recently received a petition, filed by Banfi Vintners (Banfi) of Old Brookville, New York, requesting an amendment of the regulations concerning the net contents statement on labels of wine. Specifically, the petitioner has asked that the regulations be amended to provide that the net contents for wine bottled in a 750 milliliter (750 ml) standard of fill be expressed in centiliters, as "75 cl," as an alternative to "750 ml." Banfi states that

75 centiliters is a universally recognized measurement equivalent to 750 milliliters in the metric system. Furthermore, authorizing this alternative net contents statement on wine labels "would simplify current regulations and allow for an easier flow of wines among Europe, the world markets and the United States." In that regard, the European Union (EU) requires a statement of nominal volume (net contents) on labels of wine sold in EU countries. Pursuant to European Council Directive, the nominal volume must be stated in liters, centiliters or milliliters. See Council Regulation (EEC) No. 2392/89 of July 24, 1989 (Title I, Chapter I, Section AI, Article 2(1)(b); Title I, Chapter II, Section A, Article 25(1)(b)); Council Directive 75/106/EEC of December 19, 1974.

Proposed Regulatory Amendments

For many years ATF has permitted additional statements of net contents to appear on wine labels along with the required net contents statement, provided such optional statements represent an equivalent volume. In reviewing numerous certificates of label approval the Bureau finds that an optional statement of net contents frequently appears on labels of imported wine. This is most likely due to the fact that, as mentioned, under EU regulations the net contents of wine may be stated in milliliters, centiliters, or liters. An optional statement usually appears on labels of wine bottled in a 750 milliliter size container (a popular size among consumers) and was often expressed in centiliters, as "75 cl." To a much lesser extent, the optional statement was expressed in decimal portions of a liter, e.g., "0.75 L" ("0.75 L").

Optional statements of net contents expressed in centiliters also appeared on labels of imported wine bottled in other authorized standards of fill. For example, on containers of wine bottled in a 500 milliliter standard of fill the required and optional net contents statements appeared as "500 ml" and "50 cl," respectively. In the case of wine bottled in a 375 milliliter container (375 ml), the additional net contents statement was expressed as "37.5 cl." Thus, ATF believes that consumers are accustomed to seeing the net contents of wine expressed in centiliters.

The Bureau also observed that in many instances the required and optional net contents statements appeared on the same side of the container and, in some cases, in direct conjunction with each other, e.g., "750 ml/75 cl," "375 ml/37.5 cl," etc. As such, ATF believes that consumers

recognize that the required net contents statement, expressed in milliliters, and the optional net contents statement, expressed in centiliters, represent an equivalent amount in the metric system.

Accordingly, ATF is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter shall be expressed in either milliliters (ml) or centiliters (cl), or both. The proposed amendment applies to the net contents of wine for which a standard of fill is prescribed in § 4.73, i.e., 750 ml, 500 ml, 375 ml, etc., as well as to the net contents of wine for which no standard of fill is prescribed, e.g., 730 ml (73 cl).

ATF is soliciting comments on this proposed amendment to the regulations. ATF is also soliciting comments on the following:

1. Whether the regulations should be amended in accordance with the petitioner's specific request to allow the net contents statement to be expressed in centiliters only on wine bottled in a 750 milliliter standard of fill;

2. Whether the regulations should be amended to authorize the net contents statement for wine in containers of less than 1 liter to be expressed in milliliters, centiliters, or decimal portions of liter. For example, in the case of wine bottled in a 750 milliliter standard of fill the net contents may be stated on the label as "750 ml," "75 cl," or ".75 L." ; or

3. Whether the regulations should be amended to be consistent with EU regulations, i.e., regardless of the container size, the net contents of wine shall be expressed in liters, milliliters, or centiliters.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action by Executive Order 12866. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The proposed rule is liberalizing in nature in that wine producers will have greater choices in labeling their products. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no new requirement to collect information is

proposed. Section 4.37 (previously approved under OMB control number 1512-0482) is being amended to allow producers to state the net contents of their products in centiliters as an alternative to milliliters for wine in containers of less than 1 liter. The proposed amendments are liberalizing in nature, are not substantive, and do not impose any additional burden on the industry.

Public Participation

ATF requests comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of the petition, this notice, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficareta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

Authority and Issuance

Accordingly, ATF is proposing to amend Part 4 in Title 27 of the Code of Federal Regulations as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for 27 CFR Part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Paragraph 2. Section 4.37 is amended by revising paragraphs (a)(2), (b)(1), and (b)(2) to read as follows:

§ 4.37 Net contents.

(a) * * *

(2) If less than one liter, net contents shall be stated in milliliters (ml) or centiliters (cl), or both.

(b) * * *

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml or 75 cl (25.4 fl. oz.); 500 ml or 50 cl (16.9 fl. oz.); 375 ml or 37.5 cl (12.7 fl. oz.); 187 ml or 18.7 cl (6.3 fl. oz.); 100 ml or 10 cl (3.4 fl. oz.); and 50 ml or 5 cl (1.7 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces shall be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml or 70 cl (23.7 fl. oz.).

* * * * *

Paragraph 3. Section 4.38 is amended by revising the first sentence in paragraphs (b)(1) and (b)(2) to read as follows:

§ 4.38 General requirements.

(a) * * *

(b) Size of type. (1) Containers of more than 187 milliliters (18.7 centiliters).

* * *

(2) Containers of 187 milliliters (18.7 centiliters) or less. * * *

* * * * *

§ 4.71 [Amended]

Paragraph 4. Section 4.71(a)(3) is amended by adding “(18.7 centiliters)” after “187 milliliters”.

Paragraph 5. Section 4.73(a) is revised to read as follows:

§ 4.73 Metric standards of fill.

(a) Authorized standards of fill. The standards of fill for wine are the following:

3 liters
1.5 liters
1 liter
750 milliliters (or
75 centiliters)
500 milliliters (or
50 centiliters)
375 milliliters (or 37.5 centiliters)
187 milliliters (or
18.7 centiliters)
100 milliliters (or 10
centiliters)
50 milliliters (or 5

centiliters)

* * * * *

Signed: March 17, 1998.

John W. Magaw,
Director.

Approved: April 20, 1998.

John P. Simpso,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 98-13017 Filed 5-14-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD11-98-003]

RIN 2115-AA97

Security Zone; San Diego Bay

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify and expand the geographical boundaries of the permanent security zone codified at 33 CFR 165.1105 as follows: on the waters along the northern shoreline of Naval Air Station North Island, the area enclosed by the following points: Beginning at a point located at 32°42'53.0" N, 117°11'45.0" W, thence running northerly to a point located at 32°42'55.5" N, 117°11'45.0" W, thence running easterly to a point located at 32°42'55.0" N, 117°11'30.5" W, thence running southeasterly to a point located at 32°42'50.5" N, 117°11'26.0" W, thence running northeasterly to a point located at 32°42'52.0" N, 117°11'24.5" W, thence running southeasterly to a point located at 32°42'43.5" N, 117°11'13.0" W, thence running southerly to a point located at 32°42'30.5" N, 117°11'18.0" W, thence running southeasterly to a point located at 32°42'21.0" N, 117°10'48.0" W, thence running southerly to a point located at 32°42'13.0" N, 117°10'51.0" W, thence running generally northwesterly along the shoreline of Naval Air Station North Island to the place of beginning. The perimeter of the security zone will continue to be marked and patrolled by United States Navy security patrol boats.

There were previously only two aircraft carriers homeported at Naval Air Station North Island; however, a third aircraft carrier has recently been designated to homeport at Naval Air Station North Island. The modification and expansion of this security zone is needed to accommodate the

homeporting of this third aircraft carrier at Naval Air Station North Island. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Comments may be mailed to LT Michael A. Arguelles, Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, CA, 92101-1064, (619) 683-6484. The comments and other materials referenced in this notice will be available for inspection and copying at the above address. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike Arguelles, USCG, c/o U.S. Coast Guard Captain of the Port, 2716 N. Harbor Drive, San Diego, CA 92101-1064, (619) 683-6484.

SUPPLEMENTARY INFORMATION:**Request for Comments**

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or any other materials to the address listed under **ADDRESSES** in this preamble. Persons submitting comments should include their names and addresses, identify the docket number for this rulemaking (CGD11-98-003), the specific section of the proposal to which their comments apply, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process. Persons may request a public hearing by writing to the address listed above in **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.