

current regulations do not clarify the scope of the prohibition against alteration of labels, there has been considerable confusion as to what types of labeling activities are authorized in a Customs bonded warehouse or foreign trade zone.

ATF has taken the position that there are restrictions as to the removal of mandatory information from domestic nontaxpaid distilled spirits, wines, and malt beverages. Pursuant to Parts 19, 24, and 25, such products must be marked with certain mandatory information, which is necessary to protect the revenue, and to ensure the tracing of the product in the event of diversion. Thus, it has been ATF's policy that such mandatory information may not be removed from products, regardless of the fact that they are in a Customs bonded warehouse or foreign trade zone awaiting exportation. However, this policy is not set forth in the current regulations.

ATF is thus proposing to amend the regulations in parts 4, 5, and 7 to clarify that the prohibition against alteration or mutilation of labels applies to products held in a foreign trade zone or customs bonded warehouse. The proposed amendments will specify the type of relabeling activities permissible for both domestic nontaxpaid alcoholic beverages and imported alcoholic beverages stored in a Customs bonded warehouse or foreign trade zone. Since current regulations do not authorize removal of domestic nontaxpaid malt beverages to Customs bonded warehouses pending exportation, the relabeling of malt beverages in Customs bonded warehouses is not discussed.

The proposed regulations will provide that relabeling of distilled spirits, wines, and malt beverages in Customs bonded warehouses or foreign trade zones can be accomplished without obtaining permission from ATF, as long as such relabeling is done under the supervision of Customs officials, in compliance with Customs requirements, and does not involve the removal from the label or package of information made mandatory by ATF regulations. The proposed language concerning the supervision of Customs officials and compliance with Customs requirements is not intended to impose any new requirements; instead, this language merely recognizes current requirements under Customs regulations. See, generally 19 C.F.R. 19.11 and 146.51.

Product Identification Codes

The complaints about the mutilation of product identification codes in Customs bonded warehouses and foreign trade zones brought to the

surface an issue which ATF had previously been considering—whether lot identification numbers or product identification codes should be made mandatory information on consumer packages of alcoholic beverages. Such codes are not currently required under the regulations. Instead, labels on domestic distilled spirits, wines, and malt beverages are merely required to list the name and address of the bottler. For imported products, the name and address of the importer is required information on the label.

Obviously, these requirements provide enough information so that if a product is mislabeled, adulterated, or poses a health hazard, it is possible to determine the source of the product. However, this does not allow either ATF or the producer to trace a particular consumer package back to a bottling line or production shift.

Current regulations in Parts 19, 24 and 25 promulgated pursuant to the Internal Revenue Code require certain markings on cases of distilled spirits, wines, and malt beverages. Cases of distilled spirits and wines must be marked with serial numbers. These markings are required in order to protect the revenue, and to facilitate tracing in the event of the diversion of nontaxpaid goods. However, case markings have limited value in tracing consumer packages such as bottles and cans. Once the product is removed from the case, those markings are obviously of no value in tracing the product.

The purpose of product identification codes (*i.e.*, lot identification numbers, bottling dates, freshness dates, etc.) on labels or packages of products is to facilitate the tracing of a product for safety, compliance or quality control issues. For example, if an alcoholic beverage product is found to have been tampered with, or contaminated, any type of code which would enable the tracing of the product back to the bottling line or production batch would be extremely valuable in determining how the tampering or contamination occurred, and in allowing the producer to make an informed decision as to the extent of the problem, and the need for product recalls.

For this reason, ATF believes that product identification codes are useful as a consumer protection measure. Safety, labeling and quality control problems often come to light by virtue of consumer complaints or market place testing of products by ATF. In such instances, case markings will generally be of no avail. However, the use of product identification codes can help to readily identify the hazardous or defective product, and, in the event that

a health hazard exists, assist in a speedier and more orderly recall of these products from the marketplace.

The use of lot identification numbers has already been mandated by the Council of the European Communities, in Council Directive 89/396/EEC, dated June 14, 1989. In view of the fact that many European countries now require such markings, and many large producers in the United States voluntarily place such codes on product labels or containers, ATF raised the issue of mandatory product identification codes at an industry meeting held in Washington, D.C. on July 26, 1994.

The purpose of raising this issue with industry members was to gather information on current industry practices regarding product identification codes. ATF has learned that many domestic and foreign producers of alcoholic beverages voluntarily place product identification codes or lot identification numbers on the labels or containers of wines, distilled spirits, and malt beverages. Typically, the label or container of the product will be marked with a code indicating the batch from which the product was made, a bottling date, a production shift code, or some other type of mark which will enable the producer to trace the consumer package to a specific production batch or bottling line.

While large producers are more likely to have their own system of product codes, small producers often find that such a system is unnecessary, because their own records will enable them to do any necessary tracing. At the industry meeting, questions were raised as to whether it was necessary to impose a product identification code.

Rather than impose a mandatory product identification code requirement on all producers, ATF is proposing to leave the decision as to whether to place product identification codes on consumer packages to the producer. At this time, we believe that the consumer is adequately protected by the information required under the current regulations. However, in order to allow producers to efficiently develop a system in which they can ensure the tracing of their own products, we believe that the voluntary placement of product identification codes on consumer packages by producers should be protected by regulation. This will address the specific problem currently faced by producers—the removal of product identification codes by distributors or other third parties.

If a producer believes that the only way it can efficiently trace products is