

**Bureau of Alcohol, Tobacco and Firearms****27 CFR Parts 4, 5, and 7**

[Notice No. 803; CRD-94-8]

RIN AB32

**Alteration of Labels on Containers of Distilled Spirits, Wine, and Beer**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** ATF is proposing to amend the regulations in 27 CFR Parts 4, 5, and 7 which implement section 205(e) of the Federal Alcohol Administration Act of 1935, which makes it unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand or label on wine, distilled spirits, or malt beverages held for sale in interstate or foreign commerce or after shipment therein. The proposed amendments will reinstate a requirement that ATF approval be obtained before relabeling distilled spirits, and will make it unlawful to relabel a distilled spirits, wine, or malt beverage container if the effect of such action is to remove from the container or label any information required by ATF regulations, or a product identification code placed on the product by the producer for tracing purposes.

**DATES:** Written comments must be received on or before March 6, 1995.

**ADDRESSES:** Send written comments to: Chief, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221. [Attn: Notice No. 803.]

**FOR FURTHER INFORMATION CONTACT:** Daniel J. Hiland, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

**SUPPLEMENTARY INFORMATION:****Background**

Several producers and importers of alcoholic beverages have complained to the Bureau of Alcohol, Tobacco and Firearms (ATF) that product identification code markings placed on containers and labels of wines and distilled spirits by producers for tracing purposes are being removed or mutilated after the product has left the producer's premises. Such alterations of labels or packages have been permitted in foreign trade zones and Customs bonded warehouses, because ATF regulations do not specifically address

such activities, and because product identification codes are not mandatory information under our regulations. However, the effect of such action is to make it impossible for the producers to rely on production codes to trade mislabeled, adulterated, or unsafe products.

*Federal Alcohol Administration Act*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. § 205(e), authorizes ATF to prescribe regulations relating to the packaging, marking, branding, labeling, and size and fill of container as will prohibit deception of the consumer with respect to such products or the quantity thereof.

In order to prevent the sale or shipment or other introduction of distilled spirits, wine, or malt beverages in interstate or foreign commerce which are not bottled, packaged, or labeled in compliance with the regulations, the FAA Act requires that prior to bottling distilled spirits, wines, or malt beverages, the producer or bottler must obtain a certificate of label approval covering the product. Similarly, the law provides that no person shall remove bottled distilled spirits, wines, or malt beverages from Customs custody for consumption in bottles, for sale or any other commercial purposes, without having first obtained a certificate of label approval covering the product.

Thus, the certificate of label approval requirement ensures that mislabeled distilled spirits, wines, or malt beverages cannot be introduced in interstate or foreign commerce. To ensure that products with proper labels were not altered once such products had been removed from bond, section 205(e) further provides as follows:

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

Regulations which implement these provisions of the FAA Act, as they relate to wine, distilled spirits, and malt beverages, are set forth in title 27, Code of Federal Regulations (CFR), Parts 4, 5, and 7, respectively. These regulations provide for relabeling in certain circumstances.

Sections 4.30 and 7.20 provide that someone wanting to relabel must receive prior permission from the Regional Director (Compliance). Section

5.31 does not currently require prior approval for the relabeling of distilled spirits, as long as such relabeling is done in accordance with an approved certificate of label approval.

The regulations provide that distilled spirits, wines and malt beverages may be relabeled as authorized by Federal law. Such products may also be relabeled for purposes of compliance with the requirements of the regulations, or of State law. Finally, there may be added to wine and distilled spirits bottles, after removal from Customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof, and containing no reference whatever to the characteristics of the product.

*Customs Bonded Warehouses and Foreign Trade Zones*

The statutory prohibition against the alteration or mutilation of distilled spirits, wine, or malt beverage labels applies to all products held for sale in interstate or foreign commerce. The terms of the statute thus apply to nontaxpaid domestic and imported products held for storage or manipulation in a Customs bonded warehouse or foreign trade zone.

However, since domestic nontaxpaid alcoholic beverages bottled for exportation are exempt from the certificate of label approval requirement, and certificates of label approval are not required for imported alcoholic beverages until they are withdrawn from Customs custody for consumption in the United States, ATF has previously taken the position that relabeling activities could occur in a Customs bonded warehouse or foreign trade zone without prior ATF approval. ATF regulations authorize the relabeling of alcoholic beverages in Customs custody in order to bring such products in compliance with a certificate of label approval prior to withdrawal for consumption. However, current regulations do not specifically set forth the limitations on other types of relabeling activities in Customs bonded warehouses or foreign trade zones. In general, ATF saw no need to scrutinize labeling activities involving such products unless and until they were withdrawn from Customs custody for consumption in the United States.

While ATF has not required that persons relabeling alcoholic beverages in Customs bonded warehouses or foreign trade zones obtain prior approval, such activities are subject to regulation by the United States Customs Service ("Customs"). Because the

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

to put product identification codes on the consumer packages, ATF does not believe it should allow the intent of the producer to be frustrated by third parties. It is the producer who will have to bear the costs of recalls if product identification codes have been obliterated by distributors. It is the consumer who will suffer if the obliteration of such marks makes it impossible to trace problems with contaminated products. Finally, such actions make it more difficult for ATF to trace problems with products already in the market place.

Thus, ATF is proposing an amendment to the regulations which will specifically prohibit the labeling or relabeling of products if the effect of such action is to remove from labels or containers "product identification codes" placed on the label or container by the producer for tracing purposes. The term "product identification code" is defined to include any numbers, letters, symbols, dates, or other codes placed on the label or container by which the producer may be able to trace a product back to a particular production lot or batch, bottling line, or date of removal.

Under the proposed regulations, if it is necessary for anyone but the producer to remove the original label from the product, the product identification code must be put back on the new label. ATF believes that this proposal will adequately address the problem before us, without imposing an undue burden on any part of the industry. Most importantly, it will ensure that an important consumer protection mechanism voluntarily placed on consumer packages by manufacturers will not be thwarted.

Although ATF is not proposing to require product identification codes on labels or packages, it is the opinion of the Bureau that such codes are useful, and should be encouraged. If at any time we find that the lack of such codes is hampering the exercise of our consumer protection function, we may wish to reconsider this option.

#### *Products Bottled for Exportation*

Although products which are bottled for exportation are not required to be covered by certificates of label approval, ATF believes that the prohibition on alteration of labels applies to such products. The alteration or mutilation of required information on labels, as well as product identification codes, would hamper ATF's efforts in tracing the illegal diversion of nontaxpaid alcoholic beverages which were intended for exportation. One of the purposes of the FAA Act was to aid in the collection of

taxes on distilled spirits, wines, and malt beverages. Thus, we have authority under the FAA Act to extend these provisions to products which are intended to be exported.

#### *Prior Approval for Relabeling Distilled Spirits*

The amendments to Part 5, relating to the labeling of distilled spirits products, would also resolve a problem which was inadvertently created by T.D. ATF-198, 50 FR 8456 (1985). In that amendment to the regulations, the requirement that ATF give prior approval for the relabeling of distilled spirits was removed, as long as the products were relabeled in accordance with an approved label. This created an unintended inconsistency with Parts 4 and 7, which do require prior approval for the relabeling of wines and malt beverages, respectively.

The proposed amendment would reinstate in section 5.31 the requirement that approval be obtained from ATF prior to relabeling distilled spirits. ATF does not believe that this is a burdensome requirement, in light of the statutory provision prohibiting any relabeling unless done in accordance with regulations issued by the Secretary. However, the proposed regulations will specify that such permission need not be obtained for relabeling products in Customs bonded warehouses or foreign trade zones, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any information which is mandatory under ATF regulations, or any product identification code placed on the container or label by the producer for tracing purposes.

#### *Miscellaneous*

ATF is also proposing to add to section 7.20 a provision which is already found in slightly different forms in sections 4.30 and 5.31. This provision authorizes, without prior approval from ATF, the addition of a label identifying the wholesale or retail distributor, or identifying the purchaser or consumer, as long as the label contains no reference whatever to the characteristics of the product. The proposed regulations will standardize this provision for wines, distilled spirits, and malt beverages. Furthermore, the approval procedure in all three sections is also standardized for the sake of consistency. Although the current regulations in sections 4.30 and 7.20 do not specifically condition approval for relabeling on the existence of a

certificate of label approval for the new labels, such a policy has always been enforced by ATF. The proposed regulations will spell out this requirement.

#### *Executive Order 12866*

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this Executive Order.

#### *Regulatory Flexibility Act*

It is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. This notice requests comments on a proposal to make it unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand or label on wine, distilled spirits, or malt beverages held for sale in interstate or foreign commerce or after shipment therein, including products held in a foreign trade zone or Customs bonded warehouse, if the effect of such action is to remove mandatory information required by ATF regulations, or to remove a product identification code placed on the label or container by the producer for tracing purposes. The proposal would also reinstate a requirement for prior approval for relabeling of distilled spirits products. This proposal does not mandate new labeling requirements, but merely protects and preserves mandatory information already required under the regulations, and product identification codes which a producer voluntarily chooses to put on the product. Thus, the proposal should not have a significant economic impact on a substantial number of small entities.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected: (1) to have significant secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

#### *Paperwork Reduction Act*

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3504(h).

Comments on the collection of information should be directed to the

Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to: Reports Management Officer, Information Programs Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

The collections of information in this regulation are in 27 CFR 4.30, 5.31, and 7.20. These sections require that persons who wish to alter approved labels must apply for permission to ATF. This information is required by the Bureau of Alcohol, Tobacco and Firearms to ensure that alterations of labels are done in compliance with the regulations. The likely respondents are businesses or other for-profit institutions, including small businesses or organizations. This information collected requirement is included in OMB Control Number 1512-0092, which covers the requirement to obtain prior approval from ATF for all labels on distilled spirits, wines, and beer. This requirement for prior approval of labels is mandated by statute (27 U.S.C. 205(e)).

The estimated total number of label approvals issued annually under Control Number 1512-0092 is 54,601. Based on an estimated average time of 30 minutes to complete the application for label approval, the total annual burden associated with Control Number 1512-0092 is 27,300 hours. We estimate that ATF receives about 180 applications for permission to relabel distilled spirits, wines, and malt beverages every year.

The amendments proposed in this document will not change the estimated number of 54,601 responses, because any person wanting to relabel an alcoholic beverage product is already required to obtain a certificate of label approval. The requirement for obtaining prior approval from the regional director will not change the estimated average time of 30 minutes to complete the application for a certificate of label approval, because only about 180 of the 54,601 responses will involve relabeling. The additional time required for those 180 responses is not significant enough to affect the estimated average time of 30 minutes to complete the application for label approval. Thus, the total burden estimated associated with Control Number 1512-0092 is not affected by the amendments proposed in this document.

### Public Participation

ATF requests comments from all interested persons concerning the amendments proposed by this notice. 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 the comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on the proposed amendments to the regulations should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, if a public hearing is necessary.

### Disclosure

Copies of 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 20226

### Drafting Information

The principal author of this document is Daniel J. Hiland, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects

#### 27 CFR Part 4

Advertising, Consumer Protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and Containers, Wine.

#### 27 CFR Part 5

Advertising, Consumer Protection, Customs duties and inspection, Imports, Liquors, Packaging and containers.

#### 27 CFR Part 7

Advertising, Consumer Protection, Customs duties and inspection, Imports, Labeling.

### Issuance

Title 27, Chapter I, is proposed to be amended 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.

**Par. 2.** Section 4.30(b) is revised, and new paragraphs (c) and (d) are added to read as follows:

### § 4.30 General.

\* \* \* \* \*

(b) *Alteration of labels.* (1) it shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon wine held for sale in interstate or foreign commerce or after shipment therein, including wine held in Customs bonded warehouses or foreign trade zones, except as authorized by Federal law, or as provided for in this section.

(2) *Approval procedure.* (i) The regional director (compliance) may, upon written application, permit additional labeling or relabeling of wine in containers for purposes of compliance with the requirements of this subpart or of State law. Permission to relabel shall not be given if the effect of the relabeling is to remove from the container or label a product identification code placed on the container or label by the producer for tracing purposes. For purposes of this section, the term "product identification code" includes any numbers, letters, symbols, dates, or other codes placed on the label or container by which the producer may be able to trace a product back to a particular production lot or batch, bottling line, or date of removal.

(ii) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed new labels, together with a statement of the reasons for relabeling, the quantity and the location of the wine, and the name and address of the person by whom the wine will be relabeled. In addition, the person desiring to relabel the wine must provide evidence that the proposed new labels are covered by a certificate of label approval, ATF F 5100.31.

(3) *Labels identifying wholesale or retail distributor.* There may be added to the container, after removal from customs custody, or prior to or after removal from the premises where bottled or packed, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the products.

(c) *Customs bonded warehouses.* (1) Domestic wines which have been removed without payment of tax for transfer to a Customs bonded warehouse pending exportation may be relabeled without permission from ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings which are required under Part 24 of this chapter, or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported wines held in a Customs bonded warehouse may be relabeled without permission from ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any product identification code placed on the container or label by the producer for tracing purposes. As provided in § 4.40, imported beverage wine in containers shall not be released from Customs custody for consumption without a certificate of label approval.

(d) *Foreign trade zones.* (1) Domestic wines which have been withdrawn without payment of tax for deposit in a foreign trade zone pending exportation may be relabeled without permission from ATF as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings required by Part 24 of this chapter, or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported wines which have been entered into a foreign trade zone may be relabeled without receiving prior permission from ATF, as long as such relabeling is done under Customs supervision and in compliance with Customs requirements, and the effect of such relabeling is not to remove from the label or container any product identification code placed on the label or container by the producer for tracing purposes. As provided in § 4.40, imported beverage wine in containers shall not be released from Customs custody for consumption without a certificate of label approval.

**Par. 3.** Section 4.80 is revised to read as follows:

#### § 4.80 Exports.

With the exception of the regulations at § 4.30(b), (c), and (d), the regulations

in this part shall not apply to wine exported in bond.

### PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

**Par. 4.** The authority citation for 27 CFR Part 5 continues to read as follows:

**Authority.** 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

**Par. 5.** Section 5.1 is revised to read as follows:

#### § 5.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits. This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. With the exception of the regulations at § 5.31(b), (c), and (d), the regulations in this part do not apply to distilled spirits for export.

**Par. 6.** Section 5.31(b) is revised, and new paragraphs (c) and (d) are added to read as follows:

#### § 5.31 General.

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(b) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon distilled spirits held for sale in interstate or foreign commerce or after shipment therein, including distilled spirits held in Customs bonded warehouses or foreign trade zones, except as authorized by Federal law, or as provided in this section.

(2) *Approval procedure.* (i) The regional director (compliance) may, upon written application, permit additional labeling or relabeling of distilled spirits in containers for purposes of compliance with the requirements of this subpart or of State law. Permission to relabel shall not be given if the effect of the relabeling is to remove from the container or label a product identification code placed on the container or label by the producer for tracing purposes. For purposes of this section, the term "product identification code" includes any numbers, letters, symbols, dates, or other codes placed on the label or container by which the producer may be able to trace a product back to a particular production lot or batch, bottling line, or date of removal.

(ii) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed new labels, together with a statement of the reasons for relabeling, the quantity and the location of the distilled spirits, and the name and address of the person by

whom the distilled spirits will be relabeled. In addition, the person desiring to relabel the distilled spirits must provide evidence that the proposed new labels are covered by a certificate of label approval, ATF F 5100.31.

(3) *Labels identifying wholesale or retail distributor.* There may be added to the bottle, after removal from customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

(c) *Customs bonded warehouses.* (1) Domestic distilled spirits which have been removed without payment of tax for transfer to a Customs bonded warehouse pending exportation may be relabeled without permission from ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings which are required under Part 19 of this chapter, or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported distilled spirits held in a Customs bonded warehouse may be relabeled without permission from ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any product identification code placed on the container or label by the producer for tracing purposes. As provided in § 5.51, bottled distilled spirits shall not be released from Customs custody for consumption without a certificate of label approval.

(d) *Foreign trade zones.* (1) Domestic distilled spirits which have been withdrawn without payment of tax for deposit in a foreign trade zone pending exportation may be relabeled without permission from ATF as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings required by Part 19 of this chapter, or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported distilled spirits which have been entered into a foreign trade zone may be relabeled without receiving prior permission from ATF, as long as

such relabeling is done under Customs supervision and in compliance with Customs requirements, and the effect of such relabeling is not to remove from the label or container any product identification code placed on the label or container by the producer for tracing purposes. As provided in § 5.51, bottled distilled spirits shall not be released from Customs custody for consumption without a certificate of label approval.

#### PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

**Par. 7.** The authority citation for 27 CFR Part 7 continues to read as follows:

**Authority:** 27 U.S.C. 205.

**Par. 8.** Section 7.20 is amended by revising paragraph (c), and adding new paragraph (d) and (e) to read as follows:

##### § 7.20 General.

\* \* \* \* \*

(c) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, including malt beverages held in Customs bonded warehouses or foreign trade zones, except as authorized by Federal law, or as provided in this section.

(2) *Approval procedure.* (i) The regional director (compliance) may, upon written application, permit additional labeling or relabeling of malt beverages in containers for purposes of compliance with the requirements of this subpart or of State law. Permission to relabel shall not be given if the effect of the relabeling is to remove from the container or label a product identification code placed on the container or label by the producer for tracing purposes. For purposes of this section, the term "product identification code" includes any numbers, letters, symbols, dates, or other codes placed on the label or container by which the producer may be able to trace a product back to a particular production lot or batch, bottling line, or date of removal.

(ii) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed new labels, together with a statement of the reasons for relabeling, the quantity and the location of the malt beverages, and the name and address of the person by whom they will be relabeled. In addition, the person desiring to relabel the malt beverages must provide evidence that the proposed new labels are covered by a certificate of label approval, ATF F 5100.31.

(3) *Labels identifying wholesale or retail distributor.* There may be added to the bottle, after removal from customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

(d) *Customs bonded warehouses.* Imported malt beverages held in a Customs bonded warehouse may be relabeled without permission from ATF, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any product identification code placed on the container or label by the producer for tracing purposes. As provided in § 7.31, no imported malt beverages in containers shall be released from Customs custody for consumption without a certificate of label approval.

(e) *Foreign trade zones.* (1) Domestic malt beverages which have been withdrawn without payment of tax for deposit in a foreign trade zone pending exportation may be relabeled without permission from ATF as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any markings required by Part 25 of this chapter or any product identification code placed on the container or label by the producer for tracing purposes.

(2) Imported malt beverages which have been entered into a foreign trade zone may be relabeled without receiving prior permission from ATF, as long as such relabeling is done under Customs supervision and in compliance with Customs requirements, and the effect of such relabeling is not to remove from the label or container any product identification code placed on the label or container by the producer for tracing purposes. As provided in § 7.31, no imported malt beverages in containers shall be released from Customs custody for consumption without a certificate of label approval.

**Par. 9.** Section 7.60 is revised to read as follows:

##### § 7.60 Exports.

With the exception of the regulations at § 7.20(c), (d) and (e), the regulations in this part shall not apply to malt beverages exported in bond.

Dated: September 9, 1994.

**John W. Magaw,**  
Director.

Approved: September 28, 1994.

**John P. Simpson,**  
Deputy Assistant Secretary, (Enforcement).  
[FR Doc. 95-138 Filed 1-3-95; 8:45 am]

BILLING CODE 4810-31-M

#### Fiscal Service

##### 31 CFR Part 209

RIN 1510-AA30

#### Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to remove part 209 from title 31. This part governs the regular remittance to financial institutions of Federal payments which are for credit to the accounts of employees and beneficiaries. Regulations implemented July 1, 1994, require that financial institutions receive Government ACH transactions through electronic means. This regulatory change to 31 CFR part 210 made a separate part 209 regarding checks unnecessary. In addition, proposed revisions to 31 CFR part 210, Federal Government Participation in the Automated Clearing House, make substantive changes that supersede the savings allotment provisions of part 209, because savings allotment and recurring benefit payments formerly under the terms of part 209 are made by the ACH method under the terms of part 210.

**DATES:** Comments must be received on or before February 3, 1995.

**ADDRESSES:** Comments may be mailed to the Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, Liberty Center, 401 14th Street, SW., Washington, DC 20227.

**FOR FURTHER INFORMATION CONTACT:** John Galligan (202) 874-6657 (Director, Cash Management Policy and Planning Division).

#### SUPPLEMENTARY INFORMATION:

##### Background

This amendment removes part 209 from title 31 of the Code of Federal Regulations. This action renders moot the two recently proposed amendments to part 209. On December 4, 1992, the Financial Management Service