



TTB Approves General-Use Formulas for Certain Agricultural Wines

The Alcohol and Tobacco Tax and Trade Bureau is approving general-use formulas for certain agricultural wines subject to the formula requirements in 27 CFR 24.201. Persons producing standard agricultural wines made from honey, dried fruit, or certain other agricultural products, in accordance with these general-use formulas, do not need to submit a formula to TTB for approval.

TTB RULING 2016–2

Background

In recent years TTB has experienced a marked increase in the annual number of formula submissions received for review and approval. For example, in fiscal year (FY) 2015, TTB received 3,923 wine formulas, which was a 21 percent increase from the previous fiscal year.

As part of its ongoing efforts to reduce for industry members the regulatory burdens associated with formula approval and to increase administrative efficiencies for the Bureau, consistent with its mission to protect the public and collect the revenue, TTB has reviewed the formula requirements for certain agricultural wines to determine where its formula review process could be streamlined and modernized. As a result of this review, TTB has determined that its formula review process for certain standard agricultural wine products can be accomplished in a more efficient manner while still being consistent with TTB's mission.

In lieu of issuing a formula approval for each standard agricultural wine product, TTB is, through this ruling, approving general formulas for certain standard agricultural wines made in accordance with this ruling. We refer to these formulas as "general-use formulas" and industry members who produce wines in conformance with a general-use formula do not need to submit a formula to TTB for approval. By issuing general-use formulas for these products, TTB allows industry members to get their products to the market without having to wait for formula approval.

Authority

Statutory Authority

Sections 105(e) and (f) of the Federal Alcohol Administration Act (FAA Act), [27 U.S.C. 205\(e\) and \(f\)](#), vest broad authority in the Secretary of the Treasury to prescribe

regulations with respect to the labeling and advertising of wine, distilled spirits, and malt beverages that are introduced into interstate or foreign commerce or imported into the United States. Section 105(e) also provides that, subject to limited exceptions, no person may bottle, or remove from customs custody in bottles, distilled spirits, wine, or malt beverages unless the person has obtained a certificate of label approval (COLA) issued in accordance with regulations prescribed by the Secretary. Regulations that implement the provisions of sections 105(e) and (f), as they relate to wines, are set forth in 27 CFR Part 4, Labeling and Advertising of Wines.

Chapter 51 of the Internal Revenue Code of 1986, as amended (IRC), provides the Secretary of the Treasury with authority to promulgate regulations pertaining to the production, receipt, blending, cellar treatment, and storage of wine and the bottling of wine, as well as the label information on wine bottles, containers, and packages.

TTB administers the FAA Act and chapter 51 of the IRC pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01, dated December 10, 2013 (superseding Treasury Department Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

Regulatory Authority

Formula Requirements for Domestic Wines and Wines Shipped from Puerto Rico and the Virgin Islands to the United States.

The TTB regulations at 27 CFR §§ 24.80-24.81 provide the formula submission requirements for domestic wines. These formula requirements stem from TTB's authority under the IRC. The formula requirements apply to wine proprietors under 27 CFR part 24 as well as to persons who ship wine to the United States from Puerto Rico or the Virgin Islands in accordance with 27 CFR part 26, hereinafter collectively referred to as "industry members." See 27 CFR 26.50(b) and 26.220(b).

Under part 24, an industry member must, before commencing production, obtain approval of the formula and process for the following categories of wines as defined in part 24:

- Special natural wine;
- Agricultural wine (wine made from agricultural products other than the juice of grapes or other fruits); and
- Other than standard wines (except distilling material or vinegar stock).

Industry members may submit required wine formulas either electronically, through Formulas Online, or on paper using either TTB Form 5120.29 or optional TTB Form 5100.51.¹

¹ See TTB Industry Circular 2007-4.

Formula Requirements for Imported Wines.

TTB's authority to require formulas for imported wines is based on the broad regulations in 27 CFR part 4, which provide that the appropriate TTB officer may require an importer to submit a full and accurate statement of the contents of the containers to which labels are to be or have been affixed. See 27 CFR 4.38(h). Such formulas are required to support TTB's review of applications for label approval for certain imported products. Pursuant to this authority, Industry Circular 2007-4 provides that a formula is required for certain imported wines, including wines made from agricultural products.

Agricultural Wines Under the IRC.

The IRC (26 U.S.C. 5387) provides that wines made from agricultural products other than the juice of fruit must be made "in accordance with good commercial practice," as prescribed by the Secretary of the Treasury through regulations. Wines made in accordance with such regulations, including those made from dried fruit and honey, are classified as "standard agricultural wines." The IRC specifies these production limitations for "standard agricultural wines":

- No wine spirits may be added;
- No coloring or flavoring materials (for example, fruit juices, spices, or other natural or artificial flavoring materials) may be added, with the exception that hops may be added to honey wine; and
- Wines produced from different agricultural commodities may not be blended together.

The regulations 27 CFR Part 24, subpart I – Production of Agricultural Wine, implement these statutory requirements. Under § 24.201, before producing any agricultural wine, the industry member must obtain an approval of the formula and process by which it is to be made pursuant to the provisions of § 24.80. As stated above, § 24.80 requires an industry member to obtain approval of the formulas and process by which agricultural wines, as well as certain other wines, are to be made. Section 24.80 further provides that the industry member must prepare and file the formula on TTB F 5120.29, Formula and Process for Wine, and provides that, with limited exceptions, no agricultural wine may be produced prior to approval by TTB of a formula covering each ingredient and process used in the production of the wine.

While the TTB regulations at 27 CFR 24.80 provide that a formula must be submitted for approval by the industry member on TTB Form 5120.29, Formula and Process for Wine, TTB has approved alternative methods to meet this requirement.² Industry members may submit formulas for approval on TTB Form 5100.51 or electronically through Formulas Online.

² See TTB Industry Circular 2007-4.

Subpart I contains provisions for the production of standard agricultural wines, including some derived from the IRC's "good commercial practice" provision. Sections 24.202 and 24.203 contain provisions specific to dried fruit wine and honey wine, respectively. Section 24.204 contains requirements for all agricultural wines other than dried fruit wines and honey wines.

Approval of General-Use Formulas for Certain Agricultural Wines

TTB has reviewed its formula requirements, and has concluded that the regulations in section 24.202 and 24.203 provide very specific guidelines for the production of standard dried fruit wine and honey wine, respectively. If industry members follow those rules, they will produce a standard agricultural wine. Accordingly, TTB is approving general-use formulas for standard dried fruit wines and honey wines that are made in accordance with the standards set forth in part 24.

The regulations at section 24.204 govern the production of wines from agricultural products other than dried fruit and honey. The formula review process allows TTB to review the production process for these wines to ensure the proper classification of the products for tax and labeling purposes. However, there are several standard agricultural wines falling under this category that typically raise few classification issues, when made in accordance with the provisions of the regulations. This includes wines made from carrots, maple syrup, onions, peppers, pumpkins, rhubarb, sweet potatoes, or tomatoes, when made as standard agricultural wines in accordance with part 24.

Accordingly, this ruling provides general-use formulas for the following standard agricultural wines:

- Carrot wine
- Dried fruit wine (e.g., raisin wine)
- Honey wine (Mead)
- Maple syrup wine
- Onion wine
- Pepper wine (Jalapeño, green, red, etc.)
- Pumpkin wine
- Rhubarb wine
- Sweet potato wine
- Tomato wine

Wines made from honey, dried fruits or any of the other agricultural products listed above will be classified as "other than standard wine" for formula purposes if they are not made in conformance with the standards set forth in this ruling. Such products remain subject to formula approval requirements. Please note that the classification of a wine as "other than standard" for formula purposes does not necessarily mean that the wine must be labeled as "other than standard" under the labeling regulations in 27 CFR part 4.

Labeling of Agricultural Wines Approved Under a General Use Formula

This ruling does not affect the labeling requirements set forth in 27 CFR part 4 or part 24. Agricultural wines whose formulation is approved under this ruling must be labeled in accordance with the labeling regulations in those parts. Because the definition of “wine” in the FAA Act does not include wines with an alcohol content of less than 7 percent alcohol by volume, those wines are not subject to the labeling regulations in part 4, but are instead subject to the United States Food and Drug Administration’s (FDA’s) food labeling regulations. All containers of beverage wine removed for consumption or sale from wine premises, regardless of alcohol content, are subject to the labeling regulations in 27 CFR 24.257.

Wines that contain at least 7 percent alcohol by volume are subject to the labeling regulations in 27 CFR part 4. Pursuant to 27 CFR 4.21(f), the standard agricultural wines that are covered by this ruling, which consist of wines derived wholly (except for sugar or water) from one kind of agricultural product, must be designated by the word “wine” qualified by the name of the agricultural product, e.g., “raisin wine,” “honey wine,” or “rhubarb wine.” For labeling purposes, it is TTB's policy to allow either the term "honey wine" or "mead" as the designation for honey wine that complies with the standards of identity for honey wine set forth in 27 CFR 4.21(f). Section 4.21(f) also covers wines derived from more than one kind of agricultural product; however, those wines are not exempted from formula requirements under this ruling.

To avoid delays in processing COLA applications, industry members are encouraged to note on their application that they are requesting approval of a label for a standard agricultural wine whose formula is approved under this ruling by inserting “Formula Approved Under TTB Ruling 2016-2” as a comment in item 19 on TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval or in step 3 via COLAs Online.

Effect on Currently Approved Formulas

Previously approved formulas for the agricultural wines affected by this ruling will continue to be valid. However, TTB will not accept for review new formulas submitted for products approved under this ruling. This ruling serves as the approval as required by §§ 24.201 and 24.80 of the TTB regulations.

Ingredient Safety Issues

TTB’s approval of these general-use formulas does not exempt industry members from their obligation to ensure the safe use of these ingredients. For example, certain dried fruits may have stones, pits, and seeds that present safety concerns. It has always been, and it will remain, the responsibility of the industry member to use good commercial practices to ensure that the ingredients and production processes result in alcohol beverages suitable for food consumption and that the ingredients and finished products comply with all applicable FDA regulations regarding ingredient safety. This is

true regardless of whether the product is subject to the formula requirements of the TTB regulations.

Recordkeeping Requirements under Part 24

The regulations at 27 CFR part 24, Subpart O, relate to recordkeeping and reporting requirements for proprietors of wine premises. Section 24.303 requires proprietors to keep certain records regarding “beverage formula wine.” Among other things, proprietors must record the approved formula number for each lot. See 27 CFR 24.303(b).

Please note that the wines covered by this ruling will continue to be considered “formula wines” for purposes of compliance with section 24.303. Instead of recording the approved formula number for wines that are covered by a general-use formula pursuant to this ruling, proprietors should instead record the type of wine (e.g., “Honey wine” or “raisin wine”) with the following notation: “General-use formula per TTB Ruling 2016–2.”

TTB Determination:

Held, TTB approves a general-use formula for domestic and imported standard agricultural dried fruit wines made in accordance with the standards set forth in 27 CFR §§ 24.200 and 24.202, subject to the limitations prescribed in those sections. If a wine made from dried fruit is not made in accordance with the standards set forth in these regulations, formula submission is required. As provided in § 24.200, standard agricultural dried fruit wine may not be colored or flavored, may not contain added spirits, and may not consist of wine made from one agricultural product that is blended with wine made from another agricultural product. The limitations on the use of sugar and water in the production of standard dried fruit wine are found in § 24.202.

Held further, TTB approves a general-use formula for domestic and imported standard honey wines (mead) made in accordance with the standards set forth in 27 CFR §§ 24.200 and 24.203, subject to the limitations prescribed in those sections. If a wine made from honey is not made in accordance with the standards set forth in these regulations, formula submission is required. As provided in § 24.200, standard agricultural honey wine may not be colored or flavored (except that hops may be used in limited quantities as outlined in § 24.203), may not contain added spirits, and may not consist of wine made from one agricultural product that is blended with wine made from another agricultural product. The limitations on the use of sugar and water in the production of standard honey wine are found in § 24.203.

Held further, TTB approves a general-use formula for the domestic and imported standard agricultural wines listed below, provided that they are produced in accordance with the standards set forth in 27 CFR §§ 24.200 and 24.204, subject to the limitations prescribed in those sections. If a wine made from the agricultural products listed below is not made in accordance with standards set forth in these regulations, formula submission is required. As provided in § 24.200, standard agricultural wines as listed

below may not be colored or flavored, may not contain added spirits, and may not consist of wine made from one agricultural product that is blended with wine made from another agricultural product. The limitations on the use of sugar and water in the production of standard wines made from agricultural products other than dried fruit and honey are found in § 24.204.

- Carrot wine
- Maple syrup wine
- Onion wine
- Pepper wine (Jalapeño, green, red, etc.)
- Pumpkin wine
- Rhubarb wine
- Sweet potato wine
- Tomato wine

Held further, TTB may request information about the formulation and ingredients of any wine at any time, on a case-by-case basis, during the label review process or whenever necessary to enforce TTB regulations.

Held further, Industry members remain responsible for using good commercial practices to ensure the safety of all ingredients and processes and for ensuring compliance with applicable regulations of the FDA with regard to ingredient safety, regardless of whether the wine is subject to formula requirements.

Date signed: September 14, 2016

/s/

John J. Manfreda
Administrator
Alcohol and Tobacco Tax and Trade Bureau