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 purpose, 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 giving notice to 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 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