

12/1977

## BATF hearings over; expect new reg in March

MORE THAN 50 witnesses from industry, state and federal government, and the wine consuming public spent about 17 hours stating their views on the Bureau of Alcohol, Tobacco and Firearms' wine labeling and advertising proposals for American wines and counter-proposals offered by Wine Institute. San Francisco hearings in November followed September sessions held in Washington, D.C.

Additional briefs could be submitted in writing until Dec. 3 after which the bureau takes the matter under submission, including testimony at earlier hearings. It is expected to be at least March before any new regulations could be published.

The ATF panel, headed by Director Rex D. Davis, heard testimony from California's Secretary of State March Fong Eu and from representatives of Congressman Donald Clausen and California Lt. Gov. Mervyn Dymally. A host of California industry spokesmen supported the Wine Institute position. Two familiar labeling law critics, Robert W. Benson and R. Frederic Fisher again appeared. Both are attorneys and the former is professor of administrative law at Loyola University Law School. Imported wine executives Henry J. van der Voort and Peter M. F. Siehel were among those supporting the view of the National Association of Alcoholic Beverage Importers (NAABI).

Grape growers were represented by W. Andrew Beckstoffer, Napa Valley Grape Growers Association, and by the California Farm Bureau Federation.

The industry theme was that you can't legislate wine quality, and that the industry has made great strides with the present legislation since Repeal. Most, however, acceded to the Bureau's proposal that varietals contain 75% of the named variety, with some exceptions. The present rule requires 51% for varietal labeling.

One question left unanswered for the most part is "why challenge or change the laws in effect since 1936?" An answer in part, however, was given by WI's John DeLuca. He cited pressure on regulatory bodies from activist groups and said "the national pastime is not baseball or football, but finger-pointing." Likely an earlier attempt by the Food and Drug Administration to regulate licensed beverage labeling practices also was a factor. The FDA move was rejected in court.

The hearings were initiated in June of 1975.

ATF had proposed the following: 1)



At top, California Secretary of State March Fong Eu testifies at San Francisco hearing. Lower left, ATF Director Rex Davis is interviewed by radio reporter as interest runs high. Lower right, United Vintners Board Chairman Jack Powers makes a varietal point.

the earlier BATF "seal" wine concept to be abandoned; 2) the term, "estate bottled" to be discontinued as meaningless; 3) varietal content to be raised from 51 to 75% if a wine is so labeled, with the exception of some *labrusca* and other varieties deemed unpalatable by ATF at the higher percentage; 4) viticultural areas and vineyards to be termed "controlled appellations" and subject to more stringent requirements. For example, while 75% of the grapes would still be required from the area for appellations consisting of political subdivisions, 85% would be required for viticultural appellations and 95% for vineyard-named wines; 5) the only terms to be allowed to describe winery/bottler functions would be produced, prepared, blended, manufactured and, for imports, imported. "Produced" would require 95% of the wine to be produced by fermentation, up from the present 75%. "Made" would no longer be permitted. Bottlers wishing to show who performed a function would list the place the function was performed on labels. Also, bottler registry numbers would be included on labels; 6) foreign terms, such as "auslese," would not be allowed on American wines although English translations would be permitted; 7) wineries using brand names of geographical significance or using the word "vineyard" could qualify such names with the word "brand" or the use of "TM" or "R" for registered trademarks; 8) bottle fill dates would not be required; 9) vintage wine would continue to be 95% from the area named.

ATF proposed a three-year transition period so that new regulations would apply after Jan. 1, 1981.

ATF said imported wines would have to match U.S. standards if marketed as varietals or as controlled appellation wines, and the use of such terms as "pro-

duced by" would follow U.S. definitions.

Further, for varietals made of less than 100% of the named grape, the exact percentage would have to be shown on labels "in direct conjunction with and as conspicuous as the varietal name." ATF also proposed that the word "county" follow county designations and that the word be in the same size and style of type as the name of the county.

Wines designated by a vineyard name would have to have a description of the named vineyard on the label. ATF periodically would make a compilation of registered, acknowledged vineyards available to consumers.

To use "vineyard" or "vineyards" for brands also having geographical significance 95% of the wine would have to be from such an area or the brand would have to be qualified by the word "brand" or "TM" or "R". Such a move would eliminate the need to restrict the use of "vineyard" or "vineyards" in brands approved prior to Nov. 12, 1976.

For its part, the 245-member Wine Institute agreed with several ATF proposals, disagreed with others and proposed some compromises. WI agreed with eliminating "Estate Bottled," for example, but recommended "Estate Grown and Bottled" instead. The Institute had suggested raising the varietal content from 51% to 75% and so concurred with that proposal.

WI rejected the "controlled appellation" term on grounds such a designation implied the quality level suggested by the BATF "Seal wine." Institute further opposed ATF on emphasizing varietal percentages on labels and opposed the move to describe vineyards on wines so designated.

On other fronts, the Institute:

■ Disagreed that "the 95% requirement for vintage wines should also apply