Subpart D--Rules for the Return of Distilled Spirits, Wine, and Malt Beverages

§11.31 General.

(a) Section 5(d) of the Act provides, in part, that it is unlawful to sell, offer to sell, or contract to sell products with the privilege of return for any reason, other than those considered to be "ordinary and usual commercial reasons" arising after the product has been sold. Sections 11.32 through 11.39 specify what are considered "ordinary and usual commercial reasons" for the return of products, and outline the conditions and limitations for such returns.

(b) An industry member is under no obligation to accept the return of products for the reasons listed in §§11.32 through 11.39.

Exchanges and Returns for Ordinary and Usual Commercial Reasons

§11.32 Defective products.

Products which are unmarketable because of product deterioration, leaking containers, damaged labels, or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

§11.33 Error in products delivered.

Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness.

§11.34 Products which may no longer be lawfully sold.
Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in law or regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

§11.35 Termination of business.
Products on hand at the time a trade buyer terminates operations may be returned for cash or credit against outstanding indebtedness. This does not include a temporary seasonal shutdown (see §11.39).

§11.36 Termination of franchise.
When an industry member has sold products for cash or credit to one of its wholesalers and the distributorship arrangement is subsequently terminated, stocks of the product on hand may be returned for cash or credit against outstanding indebtedness.

§11.37 Change in product.
A trade buyer's inventory of a product which has been changed in formula, proof, label or container (subject to §11.46) may be exchanged for equal quantities of the new version of that product.

§11.38 Discontinued products.
When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

§11.39 Seasonal dealers.
Industry members may accept the return of products from retail dealers who are only open a portion of the year, if the products are likely to spoil during the off season. These returns will be for cash or for credit against outstanding indebtedness.

Exchanges and Returns for Reasons Not Considered Ordinary and Usual

§11.45 Overstocked and slow-moving products.
The return or exchange of a product because it is overstocked or slow-moving does not constitute a return for "ordinary and usual commercial reasons."

§11.46 Seasonal products.
The return or exchange of products for which there is only a limited or seasonal demand, such as holiday decanters and certain distinctive bottles, does not constitute a return for "ordinary and usual commercial reasons."