

Rules made pursuant to clauses 5 (1) (d) and (e) of the Act for approval of the use of Terms, Descriptions and Designations

General

1. (1) In these Rules,

“applicant” means a manufacturer who is making an application for approval to use one or more of the terms, descriptions and designations referred to in O.Reg. 406/00 for an index wine;

“application” means an application by an applicant for approval to use one or more of the terms, descriptions and designations referred to in O.Reg. 406/00 for an index wine;

“finished bottle sample” means a sample of wine taken from an inventory of wine after the commercial bottling run;

“finished bottled wine” means wine packaged in a container intended for final sale to the public;

“independent sensory evaluation panel” means a group of persons conducting a sensory evaluation of an index wine pursuant to rule 5;

“index wine” means a wine in connection with which an application by a member of VQA Ontario for use of one or more of the terms, descriptions and designations referred to in O.Reg. 406/00 is being made made;

“ready to bottle tank sample” means a finished wine that has undergone all processes and treatments to prepare it for commercial bottling;

“receiving manufacturer” means a manufacturer who receives transferred wine, directly or indirectly, from a transferring manufacturer;

“sensory evaluation panel” means a group of persons conducting a sensory evaluation an index wine pursuant to rule 4;

“transferred wine” means wine transferred, directly or indirectly, from a transferring manufacturer to a receiving manufacturer;

“transferring manufacturer” means a manufacturer who transfers transferred wine, directly or indirectly, to a receiving manufacturer;

(2) In addition to those terms that are defined in subrule 1(1), all other terms shall have the meanings assigned to them under O.Reg. 406/00 and the *Vintners Quality Alliance Act, 1999*, S.O. 1999 c.3, as amended from time to time.

(3) Where these rules refer to VQA Ontario prescribing something to be done or the manner in which something is to be done, VQA Ontario may so prescribe by making the details of the

prescription generally available to manufacturers in any written or electronic form whatsoever, including by making such information available on its website.

Application

2. (1) An application shall be made by completing an application form prescribed by VQA Ontario and paying a prescribed application fee to VQA Ontario.

(2) Only current members of VQA Ontario may make an application.

(3) The following materials shall be provided by an applicant to VQA Ontario at the time the application is made or at such other time as VQA Ontario may prescribe:

- (a) A copy of all labels and containers of the index wine;
- (b) Three ready to bottle tank samples or finished bottle samples of the index wine to a place and in a format as VQA Ontario may prescribe;
- (c) The returns, information and other things respecting the applicant as are specified in O.Reg. 405/00 that VQA Ontario may prescribe; and
- (d) Such other information and materials as VQA Ontario may prescribe.

(4) Where an application is for approval to use one or more of the terms Icewine, Late Harvest Wine, Select Late Harvest Wine, Special Select Late Harvest Wine, Icewine Dosage, Dosage of Icewine, or Sparkling Icewine:

- (a) the applicant shall have filed the records set out in s. 5(1) of O.Reg. 405/00 as prescribed by VQA Ontario by the date prescribed by VQA Ontario; and
- (b) such records shall also accompany the application.

(5) Where an application is for approval to use the term Skin Fermented White:

- (a) the applicant shall have filed records related to fermentation intent as prescribed by VQA Ontario not later than November 15 of the harvest year; and
- (b) such records shall also accompany the application.

(6) For the purposes of subrule 2(3)(a), a true or scale copy of the labels and containers of the index wine may be provided by an applicant, provided that the actual size of all images and text used on the labels and containers and their positioning on the labels and containers are properly indicated on the copy.

Approval

3. (1) VQA Ontario shall issue an approval to an applicant to use such terms, descriptions and designations referred to in O.Reg. 406/00 as may be appropriate in connection with an index

wine if VQA Ontario is satisfied that the index wine meets the requirements of O.Reg. 406/00 for the use of such terms, descriptions and designations based on:

- (a) a review of application to ensure that it is complete and accurate;
- (b) a review of the labels and containers of the index wine;
- (c) a sensory evaluation, as described in these rules, of a ready to bottle tank sample or a finished bottle sample of the index wine;
- (d) a laboratory analysis of a ready to bottle tank sample or a finished bottle sample of the index wine to determine if the index wine is in compliance with the LCBO's Guidelines for Chemical Analysis, as amended from time to time, or such other guidelines for chemical analysis as VQA Ontario may prescribe; and
- (e) such other steps as VQA Ontario determines may be necessary to determine whether the index wine meets the requirements of O.Reg. 406/00.

(2) Despite any approval issued by VQA Ontario under this rule, an applicant acknowledges by submitting an application that it shall be solely responsible and assumes all liability for ensuring that the index wine and the labels and containers of the index wine meet all applicable requirements under federal law and provincial law.

(3) An approval for an index wine remains valid for finished bottled wine of the index wine until such approval is suspended or revoked in accordance with O. Reg. 405/00.

(4) In the event that VQA Ontario determines that an index wine meets some but not all of the requirements set out in subrule 3(1), VQA Ontario may permit an applicant to resubmit an application, in such manner as VQA Ontario may prescribe and upon paying a prescribed resubmission fee to VQA Ontario, and, in the event that VQA Ontario is satisfied based on the resubmission that the index wine meets the requirements of subrule 3(1) that were not previously satisfied, VQA Ontario shall issue an approval to an applicant to use such terms, descriptions and designations referred to in O.Reg. 406/00 as may be appropriate in connection with the index wine, without the need for the other requirements of subrule 3(1) to be considered again in connection with that application.

(5) In the event that an applicant resubmits an application pursuant to subrule 3(4), the resubmission may contain changes to the original application or additional information or materials that were not provided with the original application, provided that if the resubmission includes a ready to bottle tank sample or a finished bottle sample of the index wine, such sample must be unaltered in composition from the index wine provided with the initial application, except for necessary adjustments to sulphur dioxide and sorbic acid.

(6) In the event that an applicant resubmits an application pursuant to subrule 3(4) because the original application did not meet the requirements set out in subrules 3(1)(c) and/or 3(1)(d), the resubmission must include three ready to bottle tank samples or finished bottle samples of the index wine to a place and in a format as VQA Ontario may prescribe.

(7) An applicant may make no more than two resubmissions of an application pursuant to subrule 3(4).

(8) Any resubmissions of an application pursuant to subrule 3(4) must be made within one year of the date on which the original application was submitted.

(9) If the sensory evaluation and laboratory analysis of an index wine were conducted on a ready to bottle tank sample, the applicant shall ensure that the entire volume of approved wine is so packaged as to become finished bottled wine within one year of the approval being granted pursuant to these rules, failing which VQA Ontario may consider the index wine to have been altered subsequent to the approval being issued pursuant to s. 7(1)(c) of O.Reg. 405/00.

Sensory Evaluation

4. (1) Each index wine shall undergo a sensory evaluation in accordance with this rule.

(2) The sensory evaluation process will be guided by the following principles:

- (a) the process shall be objective, consistent, and impartial;
- (b) wines shall be evaluated against criteria set out in these rules in keeping with the standards set out in O.Reg. 406/00;
- (c) wines shall not be ranked in comparison with other individual wines; and
- (d) all members of a sensory evaluation panel will be suitably qualified by training and/or experience.

(3) For greater certainty, the principles set out in subrule 4(2) reflect expressions of principle that motivate the sensory evaluation described in this rule rather than separate requirements for such sensory evaluation, and no sensory evaluation of a wine submitted for approval for VQA Ontario that complies with the remainder of this rule shall be invalidated due to non-compliance of the sensory evaluation with the principles in subrule 4(2).

(4) The sensory evaluation of an index wine shall be conducted by a sensory evaluation panel.

(5) A sensory evaluation panel shall consist of not less than five persons.

(6) All members of the sensory evaluation panel shall conduct the sensory evaluation of an index wine during the same session and at the same location.

(7) All members of a sensory evaluation panel shall have:

- (a) at least two years' education and/or experience with wine tasting and evaluation; and
- (b) successfully completed a test that establishes a satisfactory proficiency with wine tasting and evaluation.

(8) Each member of the sensory evaluation panel conducting a sensory evaluation of an index wine will be presented with a sample of the index wine.

(9) The sample of the index wine provided to each member of the sensory evaluation panel may be accompanied by some or all of the following information:

- (a) a coded sample number;
- (b) any geographical indications as defined in O.Reg. 406/00 that the applicant identifies in the application;
- (c) the vintage date of the index wine that the applicant identifies in the application, or, if the index wine is identified as non-vintage dated wine in the application, the fact that the index wine is non-vintage date;
- (d) the wine category as described in Table 2 of O.Reg. 406/00 of the index wine that the applicant identifies in the application;
- (e) varietal content information—including if a wine is single-varietal, dual-varietal, triple-varietal, or multi-varietal, and the corresponding varieties—that the applicant identifies in the application;
- (f) any information as to whether the index wine was unfiltered or bottled with lees that the applicant identifies in the application; and
- (g) such other information as VQA Ontario may prescribe.

(10) The sensory evaluation panel shall not be advised of the identity of the applicant, the manufacturer of the index wine, or the brand associated with an index wine.

(11) Each member of the sensory evaluation panel may consider the colour, appearance, aroma, flavour, overall harmony and balance, specific characteristics attributable to stated production methods or composition, and the presence of unacceptable flaws or defects in the index wine.

(12) Following such sensory evaluation, each member of the sensory evaluation panel shall identify whether, in their view, having regard to standards set out in O.Reg. 406/00 for the quality of VQA Ontario wines generally and the index wine in particular, the index wine is free of unacceptable flaws or defects. In reaching this conclusion, members of the sensory evaluation panel may consider the following principles:

- (a) All wines should meet generally acceptable sensory standards for wines produced entirely from the fermentation of fresh, partially dried or naturally frozen grapes using good manufacturing practices;
- (b) All wines should be representative of quality wines within the stated category without unacceptable flaws or defects;

- (c) To the extent that an applicant identifies a varietal designation in the application, such index wine should exhibit the predominant character of a wine produced from the designated grape variety or varieties;
- (d) Varietal character should not be considered an important component in the overall assessment of a fortified wine or a liqueur wine, whether or not an applicant identifies a varietal designation in the application;
- (e) To the extent that an applicant identifies that the index wine is a nouveau wine in the application, such index wine should exhibit the character of a new wine in addition to being assessed as a varietal wine;
- (f) To the extent that an applicant identifies that the index wine is produced using the traditional method or méthode cuve close in the application, such index wine should exhibit the aroma, taste and characteristics of a sparkling wine made by the traditional method or the méthode cuve close, as the case may be;
- (g) To the extent that an applicant identifies that the index wine is an icewine in the application, such index wine should exhibit distinguishable icewine characteristics;
- (h) To the extent that an applicant identifies that the index wine is botrytized in the application, such index wine should exhibit the predominant character of wine made from botrytized grapes;
- (i) To the extent that an applicant identifies that the index wine is a skin-fermented white wine in the application, such index wine should exhibit the character imparted from contact with the grape skins during fermentation; and
- (j) To the extent that an applicant identifies that the index wine is bottled with lees in the application, clarity in appearance should not be considered an important component in the assessment of the index wine.

(13) Each member of a sensory evaluation panel may, but is not required to, provide reasons for their decision as to whether, in their view, having regard to standards set out in O.Reg. 406/00 for the quality of VQA Ontario wines generally and the index wine in particular, the index wine is free of unacceptable flaws or defects

(14) An index wine shall be deemed to have passed the sensory evaluation if at least 50% of the members of the sensory evaluation panel conclude that, in their view, having regard to standards set out in O.Reg. 406/00 for the quality of VQA Ontario wines generally and the index wine in particular, the index wine is free of unacceptable flaws or defects

(15) If the index wine does not pass the sensory evaluation as a result of the first evaluation of the sensory evaluation panel, a second bottle may be presented to a sensory evaluation panel for a second sensory evaluation.

(16) VQA Ontario shall notify the applicant of the pass or fail decision of the sensory evaluation panel and, if the index wine did not pass, the notice shall include any available reasons that were provided by members of the sensory evaluation panel why the wine did not pass.

(17) VQA Ontario may engage a third-party, including but not limited to the Liquor Control Board of Ontario, to carry out any portions of administration or operation of the sensory evaluation.

(18) Where these rules do not specifically provide otherwise, VQA Ontario and/or any third-party who has been engaged to carry out any portion of the administration or operation of the sensory evaluation may administer or operate the sensory evaluation in such manner as they see fit in their sole and absolute discretion.

(19) Any non-compliance with these rules, including any irregularity or defect in the substance or form of the sensory evaluation described in these rules, shall not invalidate the results of any sensory evaluation of an index wine required under subrule 4(1), provided that the process was reasonably consistent with the principles described in subrule 4(2).

(20) For greater certainty, subrule 4(19) applies such that the results of any sensory evaluation shall not be invalidated due to non-compliance with these rules if the process was reasonably consistent with the principles described in subrule 4(2) of the rules, even where the effect of such non-compliance with these rules resulted in a different result of the sensory evaluation process than would have been achieved had these rules been strictly complied with.

Review by Independent Sensory Evaluation Panel

5. (1) If an index wine has not passed the sensory evaluation described in rule 4 following an original application or a resubmission pursuant to subrule 3(4), the applicant may request that a sensory evaluation be conducted of the index wine by an independent sensory evaluation panel in accordance with this rule.

(2) All members of an independent sensory evaluation panel shall meet at least one of the following criteria:

- (a) Hold a diploma level or higher qualification in oenology, viticulture, or food science relevant to wine; or
- (b) Hold a diploma level or higher sommelier qualification or other formal education leading to a professional wine credential; or
- (c) Employment in a senior winemaking position at a VQA Ontario winery member; or
- (d) Employment in a wine science or sensory evaluation field at a post-secondary educational institution.

(3) All members of the independent sensory evaluation panel shall:

- (a) have at least five years' experience in his or her respective field in relation to wine;

- (b) continue to be active in their respective field in relation to wine; and
- (c) successfully complete a written and practical test administered by or on behalf of VQA Ontario.

(4) No member of an independent sensory evaluation panel shall have participated in a sensory evaluation panel described in rule 4 within the previous year.

(5) A request that a sensory evaluation be conducted of the index wine by an independent sensory evaluation panel shall be made by completing a form as prescribed by VQA Ontario and paying a prescribed fee to VQA Ontario.

(6) The applicant shall deliver three ready to bottle tank samples or finished bottle samples of the index wine to a place and in a format as VQA Ontario may prescribe unaltered in composition from the index wine provided with the initial application, except for necessary adjustments to sulphur dioxide and sorbic acid.

(7) Subrules 4(2), (3), (5), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), and (20) apply, modified as necessary in the circumstances, to the independent sensory evaluation conducted in accordance with this rule.

(8) The decision of an independent sensory evaluation panel with respect to a wine is final and is not subject to further review.

(9) A decision of an independent sensory evaluation panel with respect to a wine takes precedence over any sensory evaluation conducted in accordance with rule 4.

(10) An applicant may only request that a sensory evaluation be conducted of an index wine by an independent sensory evaluation panel in accordance with this rule once.

(11) After requesting that a sensory evaluation be conducted of the applicant's wine by an independent sensory evaluation panel in accordance with this Rule, an applicant may not resubmit a wine pursuant to subrule 3(4).

Post-Approval Conditions

6. (1) A manufacturer whose membership in VQA Ontario has been reinstated after an approval of an index wine has been suspended or revoked due to a period of non-membership shall apply for a new approval for the index wine from VQA Ontario if seeking to use terms, descriptions and designations referred to in O.Reg. 406/00 in connection with an index wine.

(2) After an index wine is approved under subrule 3(1), VQA Ontario may at any time:

- (a) conduct or cause to be conducted a quality assurance review of an index wine;
- (b) conduct or cause to be conducted an audit of an index wine; or

(c) review or cause to be reviewed the labels and packaging applied to an index wine.

Quality Assurance Review

7. (1) This rule governs quality assurance reviews provided for under subrule 6(2)(a).

(2) The purpose of a quality assurance review is to ensure that an index wine has not been altered subsequent to an approval being issued.

(3) VQA Ontario may conduct one or more quality assurance reviews of a wine, at its sole discretion.

(4) VQA Ontario may conduct quality assurance reviews of more than one of a manufacturer's wines simultaneously.

(5) The manufacturer shall promptly provide to VQA Ontario such information and documents as VQA Ontario may request in the course of a quality assurance review.

(6) VQA Ontario may conduct or cause to be conducted a laboratory analysis of a wine as part of a quality assurance review.

(7) For the purpose of conducting a laboratory analysis of a wine as part of a quality assurance review, VQA Ontario may obtain finished bottled wine from any source that it deems appropriate and, if VQA Ontario so requests, the manufacturer of such wine shall furnish at manufacturer's expense to VQA Ontario one bottle of the finished bottled wine of each of the wines that is subject to a quality assurance review.

(8) Additions of sulphur dioxide and/or sorbic acid up to the limits permitted by the *Food and Drugs Act*, R.S.C., 1985, c. F-27, will not be considered to be alterations for the purpose of the quality assurance review or s. 7(1)(c) of O.Reg. 405/00.

(9) VQA Ontario is not required to notify a manufacturer that it is conducting or has conducted a quality assurance review.

Audit

8. (1) This rule governs audits provided for under subrule 6(2)(b).

(2) The purpose of an audit is to determine whether the wine meets the requirement of O.Reg. 406/00 and these rules.

(3) VQA Ontario may conduct one or more audits of a wine, at its sole discretion.

(4) VQA Ontario may conduct audits of more than one of a manufacturer's wines simultaneously. For greater certainty, VQA Ontario may conduct audits of all of a manufacturer's wines simultaneously.

(5) In the event that VQA Ontario conducts an audit of one or more a manufacturer's wines, VQA Ontario shall advise the manufacturer that it is conducting an audit of that wine or those

wines. In the event that VQA Ontario is conducting an audit of all of a manufacturer's wines simultaneously, it shall so advise the manufacturer without the need to itemize each wine in respect of which VQA is conducting an audit.

(6) In the course of an audit of a wine, VQA Ontario may:

- (a) conduct a review of the records described in subsections 2, 3, 4 and 5 of O.Reg. 405/00;
- (b) reconcile the records of the amount of grapes purchased to make the wine, compared with the wine production records, to assure reasonable feasibility of reported recoveries;
- (c) reconcile the wine production records with inventories, reported sales, transfers and other disposals;
- (d) conduct a review the labels and packaging applied to the wine; and
- (e) take such other steps as the VQA Ontario deems advisable in the circumstances in order to determine whether the wine is in compliance with O.Reg. 406/00

(7) If an audit indicates that the wine is not in compliance with the requirements of O.Reg. 406/00 or the manufacturer is otherwise not in compliance with O.Reg. 406/00, VQA Ontario shall advise the manufacturer of such non-compliance.

(8) VQA Ontario may delegate any portion of an audit to a third-party, including but not limited to the Liquor Control Board of Ontario.

Inter-winery Transfer of VQA Wine, Juice or Grape Must in Bulk

9. (1) Except as provided for in this rule, a receiving manufacturer who wishes to use terms, descriptions and designations referred to in O.Reg. 406/00 in connection with transferred wine or wine manufactured using transferred wine must make an application for and receive approval pursuant to these rules, regardless of whether the transferring manufacturer received approval in connection with the index wine pursuant to these rules.

(2) Where a receiving manufacturer submits an application in connection with an index wine, the sensory evaluation described in rule 3(1)(c) and the laboratory analysis described in rule 3(1)(d) shall be deemed to be satisfied, without the need for such steps to be completed in connection with the application, if the receiving manufacturer is able to establish to the satisfaction of VQA Ontario that:

- (a) the index wine is composed entirely of transferred wine;
- (b) the transferring manufacturer received approval to use terms, descriptions and designations referred to in O.Reg. 406/00 in connection with the transferred wine pursuant to these rules;
- (c) all of the transferred wine was transferred to the receiving manufacturer as either finished bottled wine or bulk wine;

- (d) all of the transferred wine becomes finished bottled wine within one year of the approval being granted to the transferring manufacturer pursuant to these rules;
 - (e) the transferred wine was not altered in any way as compared to the index wine in relation to which the transferring manufacturer received approval to use terms, descriptions and designations referred to in O.Reg. 406/00, save and except additions of sulphur dioxide and/or sorbic acid up to the limits permitted by the *Food and Drugs Act*, R.S.C., 1985, c. F-27; and
 - (f) the transferred wine was not subject to any processes or storage that would reasonably be expected to change the sensory or chemical profile of the wine.
- (3) VQA Ontario may prescribe additional information and documents that must be provided by a receiving manufacturer that wishes to avail itself of the benefit of rule 9(2).