|  |
| --- |
| US/ Modernization of the Labeling and Advertising Regulations for alcoholic beverages. |
| BACKGROUNDIn late 2018, US notified to WTO a TTB ( Alcohol and Tobacco Tax and Trade Bureau) proposal to amend its regulations governing the labeling and advertising of wine, distilled spirits, and malt beverages. TTB proposes to reorganize and recodify these regulations in order to simplify and clarify regulatory standards, incorporate guidance documents and current policy into the regulations, and reduce the regulatory burden on industry members where possible.The full proposal can be found here: [*https://members.wto.org/crnattachments/2018/TBT/USA/18\_6157\_00\_e.pdf*](https://members.wto.org/crnattachments/2018/TBT/USA/18_6157_00_e.pdf)Deadline for comments to WTO is **26th March**.Thus, any CEEV comment should be sent to the Commission one month in advance.TTB is proposing three years to come into compliance with the proposed regulations, MAIN ISSUES**1.- Provisions reflecting current TTB policy, and thus no existing labels should need to be changed to come into compliance with these requirements.*** Changing the definition of a certificate of label approval (COLA) to incorporate TTB’s current policy of expanding the allowable revisions that may be made to already approved labels through the issuance of guidance documents;
* Codifying TTB’s current policy that any wines, distilled spirits, or malt beverages that are adulterated under the Federal Food, Drug, and Cosmetic Act are mislabeled under the FAA Act;
* Codifying TTB’s current policy that compliance with the labeling regulations issued under the FAA Act does not relieve industry members of their responsibility to comply with FDA regulations regarding the safety of additives and ingredients, as well as FDA regulations regarding the safe use of materials in containers;
* Codifying TTB’s current policy that the issuance of a COLA does not confer trademark protection or relieve the certificate holder from liability for violations of other existing regulations, and that products covered by a COLA may still be mislabeled if the label contains statements that are false or misleading when applied to the beverage in the container;
* Codifying current TTB guidance with respect to the use of a COLA by an importer other than the permittee to whom the COLA was issued;
* Amending the regulations on the use of semi-generic designations for consistency with amendments made to the IRC in 2006 (related to the EU-US wine agrement);
* Codifying current policy with respect to the required name and address statement on labels for wines that have been subject to certain production activities after importation in bulk;
* Codifying current policy with respect to the allowed use of certain non-misleading labeling claims about environmental and sustainability practices;
* Removing outdated provisions in the tax laws from the labeling regulations;
* Providing that certain alcohol beverage products do not meet the definition of a wine under the FAA Act, and must accordingly be labeled in accordance with FDA labeling regulations for food;

**2. Liberalizing changes: which will not require companies that are currently in compliance with the regulations to make any changes, but may provide with additional options they can choose to use.**Key examples include:* Allowing greater flexibility in the placement of mandatory information on labels by eliminating the requirement that mandatory information appear on the ‘‘brand label’’;
* Liberalizing the requirements for the use of a type designation consisting of multiple grape varieties, thus allowing greater flexibility in the blending of wines;
* Allowing the use of truthful, accurate, specific, and non-misleading. Additional information on the label about the grape varieties used to makea still grape wine, sparkling grape wine, or carbonated grape wine, provided that the information includes every grape variety used to make the wine, listed in descending order of predominance;
* Allowing the use of vintage dates on wines bottled in the United States that had been imported in bulk containers under certain conditions;
* Allowing certain statements of alcohol content, other than alcohol as a percentage of alcohol by volume, as additional information on labels already containing a mandatory alcohol content statement.

**3. Potentially restrictive changes: which may require some industry members to either change the labeling of their products or to change the formulation of the product to avoid labeling changes.** TTB believes that most of these proposed changes will not impact many products, but solicits comments on the impact that the proposed changes will have. These changes include:* Cross-referencing CBP regulations that require a country of origin statement on labels of imported wines. TTB does not believe this will impact many labels, as such a statement is already required for imported wines.
* Prohibiting the use of labeling and advertising statements and representations that create a misleading impression that the product is a different commodity. This may require the relabeling of certain products that are marketed using terms associated with different commodities, if such terms create a misleading impression as to the identity of the product.
* Codifying in the regulations that grape wine and fruit wine must meet the standards for ‘‘natural wine’’ under the IRC.

**4. Other changes*** TTB is also proposing to clarify and expand existing requirements with regard to ‘‘packaging’’ of wine. This includes coverings, cartons, cases, carriers, and other packaging used for sale at retail, but does not include shipping cartons or cases not intended to accompany the container to the consumer.

**5. Record keeping*** Upon request by the appropriate TTB officer, bottlers and importers must provide evidence of label approval for a label used on an alcohol beverage container that is subject to the COLA requirements of the applicable part. Bottlers and importers must be able to provide this information for a period of five years from the date the products covered by the COLAs were removed from the bottler’s premises or from customs custody, as applicable.
* The proposed regulations provide for the first time that any labeling claim that does not have a reasonable basis in fact, or cannot be adequately substantiated upon the request of the appropriate TTB officer, will be considered misleading.
* TTB also proposes to require the use of a specific TTB Form or the submission of formulas.

 **6. Other issues**TTB is also asking for comments on several issues that are discussed in the proposal. Some examples:* **Administrative approval of grape variety names**: TTB is proposig a change in the current policy with regard to the administrative approval of grape variety names by eliminating the obligation to publsh the names in the Federal Register. Instead, a complete list of variety names (including those temporarily approved) will be found in TTB website. This implies that TTB will not solicit comments on the use of the proposed varietal names. However, an administrative approval may be revoked as a result of subsequent rulemakig concerning the variety name;
* **Natural wine**: TTB is interested in receiving comments regarding whether trade and consumer understanding of the term ‘‘natural,’’ when used on a wine label, is that no brandy has been added to the wine. TTB is also interested in receiving comments that indicate how the industry and consumers interpret the term ‘‘natural’’ in relation to wine.

 NEXT STEPSProcedure for the compilation of CEEV comments will be discussed at next COMEX meeting on 17th January. |