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Modernization of Labeling and Advertising Regulations on Alcoholic Beverages

The Alcohol and Tobacco Tax and Trade Bureau (“TTB”) has modernized labeling and advertising regulations for wine, distilled spirits, and malt beverages, which took effect on May 4, 2020.

The [final rule](#) gives companies flexibility on the placement of mandatory information on distilled spirits labels. The final rule will allow information, including brand name, class and type of the distilled spirit, alcohol content, and net contents (for containers that do not meet a standard of fill), to appear anywhere on the label, as long as all mandatory information can be viewed simultaneously, without the need to turn the container. The final rule also allows the use of alternative options for contact identification, such as phone numbers, emails and websites.

The rule also amended [regulations](#) that govern specific distilled spirits, like tequila and vodka. For example, the rule created, within the standards of identity, a class called “Agave Spirits,” and two types within that class: “Tequila” and “Mezcal.” Previously, regulations provided a standard for only tequila. TTB believes that the creation of the Agave Spirits class will provide more information to consumers and will allow industry flexibility when labeling products that are distilled from agave. Regarding the Vodka type designation, TTB removed the requirement that vodka products be without distinctive character, aroma, taste, or color, allowing the use of flavored vodka.

TTB’s final rule also affects malt beverages, like beer. Previously, TTB prohibited “strength claims” on beer labels and in beer advertisements; however, TTB will now authorize such [labeling and advertising](#). As such, the use of words like “strong,” “full strength,” and “extra strength” will now be allowed. TTB also now allows the use of “draught” and “draft” in labelling for malt beverages. TTB will also now allow “other truthful, accurate, and specific factual representations of alcohol content, such as alcohol by weight” to

“appear on the label, as long as they appear together with, and as part of, the statement of alcohol content as a percentage of alcohol by volume.” Thus, brewers will be able to list both metrics and comply with requirements in states that require alcohol content to be stated as a percentage of alcohol by weight as well as states that neither require nor prohibit alcohol by weight statements.

The rule is generally favorable because it does not require any changes to current labels or advertisements, and it provides more flexibility and clarity for some existing requirements.

Below is a summary of the changes that the TTB chose to adopt from its 2018 proposal. The TTB plans to conduct further analysis and address additional issues at a later date. While the majority of the changes affect distilled spirits, a few changes relate to malt beverages and wine as well.

Key Changes

- Removes prohibitions against the use of the term “strong” and other indications of alcohol strength on malt beverage labels.
- Increases the tolerance applicable to the alcohol content statements on distilled spirits labels to plus or minus 0.3 percentage points.
- Removes the current prohibition against age statements on several classes and types of distilled spirits and also vintage statements on imported wines that can properly identify vintage.
- Removes a limitation on the way distilled spirits producers may count the distillations when making optional “multiple distillation” claims on their labels.
- Amends the standard of identity for vodka to allow for flavored or altered vodka.
- Adds a process for importers and bottlers to make certain changes to approved labels in order to personalize labels without having to resubmit the labels for TTB approval.
- Creates an “Agave Spirits” class, of which tequila and mezcal will be a part, that will allow the industry greater flexibility in

labeling products distilled from agave.

- Required country of origin labels on all imported alcoholic beverages (not just distilled spirits).
- Revises regulations on the placement of mandatory information on distilled spirits containers. The revised rules will allow mandatory information to appear anywhere on the labels, as long as it is within the same field of vision (e.g., a single side of a container).

[Jan de Beer](#) and [Chanhee Han](#) have substantial experience representing clients in the alcohol and distilled liquors industry on matters ranging from import and export to customs regulations, labeling requirements and transaction licensing. For more information on this topic, please feel free to contact Jan or Chanhee or anyone on Frost Brown Todd's [Alcohol & Tobacco Industry Team](#).

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