Malt Beverage Formulation

Presented by
Michael Warren, Formulation Specialist
Alcohol and Tobacco Tax and Trade Bureau
Specific Regulatory Authority for Malt Beverages

  – 27 CFR part 16

• Federal Alcohol Administration Act - 27 U.S.C. 205
  – 27 CFR part 7 - Malt Beverages

• Internal Revenue Code - 26 U.S.C. Chapter 51
  – 27 CFR part 25 - Beer
How many formulas do we review per year?

We received approximately 4246 malt beverage formula submissions in FY 2014.

Of which, 45-50% are returned for correction!!
Formulation Team Mission

• To properly Class and type the product to ensure the proper taxes are affixed.
• To ensure all products are produced in accordance with all regulations making for an even “playing field” across the industry.
• Ensure all products are made with safe ingredients and production processes by collaborating closely with the FDA.
Where can I go to find out if my Beer requires a Pre-Cola Evaluation?
Important Guidance Circulars

- Industry Circular 2007-4
- TTB Ruling 2014-4
Industry Circular 2007-4

- Is a road map to be used to determine if your product requires a Pre-Cola Evaluation
What types of products require Pre-Cola Evaluation?

- Malt Beverage Specialties/Flavored Malt Beverages
- Ice Beer
- Alcohol Free Malt Beverages
- IRC Beers
Malt Beverage Specialties

- Malt beverage Specialty products are Beers that contain non exempted flavoring and coloring components and/or compounded flavors.
Release of TTB Ruling 2014-4

- Was released in response to the brewing industry submitting a request to exempt from formula requirements imposed by TTB regulations at 27 CFR 25.55, malt beverages made with honey, certain fruits, certain spices, and certain food ingredients. This request also included the aging of malt beverage products in previously used cooperage in the production or storage of wine and/or distilled spirits. The brewing industry found these ingredients and production processes to be “traditional.”
TTB Ruling 2014-4

FRUITS

- Apples
- Apricots
- Blackberries
- Cherries
- Cranberries
- Juniper Berries

- Oranges
- Peaches
- Pumpkins
- Raspberries
- Strawberries
- Lemons
Industry Circular 2014-4
continued....

SPICES

- Allspice
- Anise/Star Anise
- Pepper/Peppercorns
- Cardamom
- Cinnamon
- Clove

- Cocoa
- Coriander
- Ginger
- Nutmeg
- Orange/Lemon peel
- Vanilla (whole bean)
Industry Circular 2014-4 continued....

OTHER ITEMS

- Brown Sugar
- Candy/Candi sugar
- Chili Peppers
- Chocolate
  - Coffee (beans/grounds)
- Honey
- Maple Sugar/Syrup
- Molasses
- Lactose
Exempt Processes

• Aging Beer in plain barrels or with plain woodchips/spirals/staves etc.
• Aging Beer in barrels previously used in the production of wine/spirits
• Aging Beer with spirals/staves/chips that were previously used in the production of wine/spirits
If I am using non-exempted ingredients in the production of my beer, What information should be sent to the TTB?
When submitting a formula to the TTB you must have:

- Complete and Quantitative List of Ingredients
- Complete and Detailed Method of Manufacture
How do I submit my formula?

• Three ways to submit a formula:

 1. Formulas Online (FONL)
 2. Mail: Using form 5100.51
 3. Mail: Using Letterhead
    – When Mailing formulas to the TTB please mail to:
      TTB
      ALFD
      Attn: Formulation Team
      1310 G Street NW Box 12
      Washington, DC 20220
Registration for FONL

- **Existing COLAs Online Users**
  - Same user ID and password may be used to access both COLAs Online and Formulas Online

- **New Users to COLAs and Formulas Online**
  - New user ID and password will be issued and may be used to access Formulas Online

**allow 2-4 weeks for verification and registration to be completed**
Registration for FONL (cont.)

• Existing COLAs Online Users
  – Log into COLAs Online through TTBOnline.gov Portal
  – User Profile
  – Modify User Registration
  – Add Formulas Online
  – Complete Company Detail Tab
  – Upload required documents
    • Signing Authority Form (TTB Form 5100.51)
    • Power of Attorney (TTB Form 5000.8)

Submit
  • Perjury Statement Agreement
Application Submission FY 2014

- Certificates of Label Approval (COLAs): 142,440
- Malt Beverage COLAs Only: 20,629
- COLAs Online: 19,315
- Paper Applications: 1,314
TTB

• TTB’s statutory mandate is to prevent consumer deception and to ensure that alcohol beverage labels provide consumers with adequate information as to the identity and quality of the product.
TTB Ruling 2013-1

• If a product is only sold in the state where it is produced, a label application (COLA) is not required to be submitted to TTB for review and approval.

• However if the state where the product is produced requires an approved COLA from TTB then a label application must be submitted to TTB for review.
Mandatory Label Information

Brand Label
- Brand Name 27 CFR 7.23
- Class - 27 CFR 7.24
- Name and Address (domestic) 27 CFR 7.25
- Net Contents 27 CFR 7.27
- Alcohol Content (for Flavored Malt Beverages) 27 CFR 7.22

Any Label
- Name and Address (Imported) 27 CFR 7.25
- Country of origin
- Declaration of Aspartame 27 CFR 7.22
- Declaration of Sulfites 27 CFR 7.22
- FD&C Yellow #5 27 CFR 7.22
Mandatory Label Information (Continued)

- **Brand Name** — name under which the malt beverage is marketed
- **Class and Type** — the specific identity of the malt beverage (e.g., beer, ale, porter, stout, malt liquor, cereal beer near beer)
- **Name and Address** — city and State of bottler/packer
Mandatory Label Information (Continued)

- **Net Contents** — must be expressed in English units of measure (e.g., fluid ounces, pints, quarts, gallons)

- **Alcohol Content** — optional unless required by State law; mandatory when any alcohol comes from added flavors
• Alcohol content statements may appear as:
  • Alcohol (ALC) ___% by Volume (VOL) or
  • Alcohol (ALC) by Volume (VOL) ___% or
  • ___% Alcohol (ALC) by Volume (VOL) or
  • ___% Alcohol (ALC)/Volume (VOL)

• “ABV” is not acceptable

27 CFR 7.21
Mandatory Label Information (Continued)

- All mandatory information must appear in readily legible printing on completely contrasting background
- All mandatory information must be in English
- Minimum print size for containers larger than ½-pint size is 2 millimeters
- Maximum print size for alcohol content on containers larger than ½-pint size is 3 millimeters
- Maximum print size for alcohol content on containers of 40 fl. oz. or larger is 4 millimeters
Allowed Geographic Names

• India Pale Ale
• Baltic Porter
• Russian Imperial Stout
• Imperial Russian Stout
• Scotch Ale
• Scottish Ale
• Bohemian Pilsner or Bohemian Beer
Geographic names
27 CFR 7.24

• Geographic names shall not be applied to malt beverages produced in any place other than particular region unless qualified with text such as “STYLE” or “PRODUCT OF THE USA” or other text to indicate the true place of production.

• Example: Belgian Style Ale
GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.
GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.
Belgian-Style Ale

Ale brewed with spices
(coriander, grains of paradise, orange peel)

**GOVERNMENT WARNING:** (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.
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Imported by ABC Import Company, Springfield, Or.
Non Alcoholic

- Product must contain less than 0.5% alcohol by volume
- Label must state “contains less than 0.5% alcohol by volume” in direct conjunction with “Non Alcoholic”
- May not be labeled as “Beer,” “Stout,” “Lager,” “Ale,” “Porter,” “Malt Liquor,” or “Lager Beer”
- Label must state “Non taxable under section 5051 I.R.C.”
Non-Alcoholic Malt beverage
Contains less than 0.5% Alcohol by Volume
12 Fluid Ounces
Non-taxable under section 5051 I.R.C.
TTB Ruling 2008-3

• Labeling jurisdiction of malt beverages requires the product contain both malted barley and hops (27 CFR 7.10)
• Labeling jurisdiction for products without malted barley and/or hops is regulated by the FDA
• Contact FDA at 301-436-2371
• TTB still retains jurisdiction over formulas and revenue collection
TTB Ruling 2014-2

• This ruling states the text that may or may not appear on malt beverage labels regarding the gluten content of the product.

• If a malt beverage has been processed to remove gluten, documentation regarding that process must be forwarded to the TTB lab for review.
Prohibited Practices

• Labels/cartons/cases shall not contain:
  – Any false or misleading information, especially relating to:
    • Irrelevant, scientific, or technical matters
    • Analyses or tests
    • Guarantees
    • Curative or therapeutic claim

27 CFR 7.29
Prohibited Practices (Continued)

- Labels/cartons/cases shall not contain:
  - Obscene or indecent material
  - The U.S. flag or U.S. military or Government seals or emblems
  - The words “strong,” “full strength,” etc.
  - Text that implies that the product is a distilled spirit or contains a distilled spirit

**NOTE:** This is not an all-inclusive list
Allergen Disclosures

Under TTB’s proposed regulations, producers, bottlers, and importers of alcohol beverages must declare on a product label the use of:

- Milk
- Eggs
- Tree nuts
- Soybeans
- Peanuts
- Wheat
- Fish
- Crustacean Shellfish

As well as ingredients that contain protein from these foods.
Allergen Disclosure (Continued)

- Under Interim Rule, effective July 26, 2006, voluntary labeling of major food allergens is allowed on labels of alcohol beverages.
- Allowed statements must read: **Contains: Milk, eggs, and fish**
- If one allergen is disclosed, then all allergens used in production of beverage must be disclosed.
Resources

- www.ttb.gov
- 27 CFR parts 7, 16, and 25
- T.D. 21, Flavored Malt Beverages and Related Regulatory Amendments
- TTB Ruling 2004-1 (Low carb/calories)
- TTB Procedure 2004-1 (lab methods)
- Beer Beverage Alcohol Manual (BAM)
- www.fda.gov
- Ruling 2014-2, Revised Interim Policy on Gluten Content Statements in the Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages
- Ruling 2011-4, Streamlining the Certificate of Label Approval Review Process
- TTB Industry Circular 2010-8, Alcohol Beverages Containing Added Caffeine
- TTB Industry Circular 2010-1, Alcohol Beverage Sampling Programs Target Advertising, Labeling, and Contents Compliance
- TTB Industry Circular 2008-3, Classification of Brewed Products
- TTB Industry Circular 2007-4, Pre-COLA Product Evaluation
- Industry Circular 2002-4, Labeling and Advertising of Flavored Malt Beverages