

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 7

[Notice No. 946]

RIN 1512-AC10

Labeling and Advertising of Malt Beverages (2000R-107P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the regulations regarding the labeling and advertising of malt beverages in accordance with plain language principles. These changes also incorporate minor technical amendments. There are no changes in requirements from the existing regulations. The Bureau of Alcohol, Tobacco and Firearms (ATF) is making this change in order to more clearly communicate the existing requirements. Because we are amending these regulations to conform to the plain language style, we are limiting comments to the effects of this change in the regulations' language. While we welcome comments on any aspect of these regulations, we will consider in this rulemaking only those comments that bear on the change in language.

DATES: We must receive your written comments not later than August 26, 2002.

ADDRESSES: You must send written comments to: Chief, Regulations Division, Notice No. 946, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221.

See also the heading entitled "Public Participation—Submission of Comments" in the **SUPPLEMENTARY INFORMATION** portion of this notice for information about submitting comments by FAX or by electronic mail.

Anyone may examine copies of written comments to this notice of proposed rulemaking, including comments submitted by FAX or by electronic mail. Comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 6480, 650 Massachusetts Avenue NW., Washington, DC 20226; telephone 202-927-7890.

FOR FURTHER INFORMATION CONTACT: You may contact Charles N. Bacon, Program Manager, Bureau of Alcohol, Tobacco and Firearms, 10 Causeway Street, Room 701, Boston, MA 02222; telephone 617-557-1323.

SUPPLEMENTARY INFORMATION:

Public Participation—Submission of Comments

We request comments from all interested persons. We will carefully consider all comments we receive on or before August 26, 2002. We will give the same consideration to comments we receive after that date if it is practical to do so, but we give assurance of consideration only to comments we receive on or before the closing date.

Because we intend that this rulemaking revise only the style of language, and not the effect of the regulations, we solicit comments on that basis only. Accordingly, comments should be limited to the following questions: Does this language have the same effect as the old regulations? Does the plain language format effect the operation of the regulations? Is this new style helpful or useful? We will not consider in this rulemaking any comments that go beyond this scope.

Will ATF Treat My Comments as Confidential?

No. We will not recognize any material in comments as confidential. Your comments may be disclosed to the public. You should not include any material that you consider to be confidential or inappropriate for public disclosure. We may disclose the name of any person submitting a comment.

May I Submit a Comment by Facsimile Transmission?

Yes. You may submit comments by facsimile transmission to (202) 927-8602. Facsimile comments must meet these guidelines. They must:

1. Be legible when printed on 8½ x 11" paper;
2. Contain the notice number and a written signature; and
3. Be three pages or less in length.

We will not accept FAX comments longer than three pages. We will not acknowledge receipt of FAX transmittals. We will treat facsimile comments as originals.

May I Submit Comments by Electronic Mail?

Yes. You may submit comments by electronic mail to nprm@atfhq.atf.treas.gov or through the ATF home page at <http://www.atf.treas.gov>. Electronic mail comments must include:

1. A reference to this document's ATF notice number;
2. Your e-mail address; and
3. Your name and post office address.

Background

This is a plain language revision of 27 CFR part 7, Labeling and Advertising of Malt Beverages. We issued the original requirements in part 7 after an opportunity for notice and comment in the rulemaking process. Since we are making only stylistic changes and minor technical amendments, we are limiting comments to the plain language issue in this proposed rule. As this revision adopts the plain language style, there is no change in the intent or effect of the regulations from the existing part 7. There are no changes to the authority, scope, or effect of the regulations. The authority for these requirements remains 27 U.S.C. 205.

Discussion

What Is ATF Doing About the Interim Regulation on Alcohol Content?

This revision combines the existing sections that concern alcohol content. We omit the old § 7.26, a section we suspended on April 19, 1993, in T.D. ATF-339. Instead, we simply state the current "interim" requirements found at § 7.71. The plain language requirements are in new §§ 7.100 through 7.108.

Why Is ATF Issuing Part 7 in Plain Language?

We intend for this revision to provide greater clarity to part 7. It is one of the first revisions of our regulations to adopt the plain language style. As one of the smaller parts in title 27, it is one that is more easily revised. This change gives us a plain language version to serve as a model for future revisions.

How Does This Revision Change Part 7?

There are no changes to the current requirements. There are no additions or deletions from regulatory provisions. However, we are amending part 7 in several ways.

We are expanding section headings, moving material from subordinate sections to main section numbers, reorganizing for easier reading, and simplifying language.

We are combining identical requirements for labeling and advertising. We had previously listed nearly identical requirements for labeling and advertisement in separate subparts. We are now combining similar requirements that apply to both labeling and advertising. Where requirements differ, we make those distinctions in separate sections.

We are stating requirements in a more logical, clearly identified order.

1. New subpart C lists requirements for labeling malt beverages.

2. New subpart D lists requirements for advertising malt beverages.
3. New subpart E lists prohibited practices for labeling and advertising of malt beverages.

To What Extent Does This Regulation Apply?

These regulations apply to the labeling and advertising of malt beverages to the extent that State law applies to these issues. Some States have adopted the Federal Alcohol Administration Act (FAA) requirements. Other States have different requirements, including:

Specific State alcohol beverage regulations,

General incorporation of the Federal rules as State rules, or

Other requirements, such as regulation of alcohol beverages as food.

If your State requires that you label your malt beverages, whether through a malt beverage-specific law, or through a more general law, such as a requirement to label as a food product, then these labeling regulations apply to you. Likewise, if your State consumer protection or unfair merchandise practices impose similar requirements on advertising malt beverages, then these advertising regulations apply to you.

Is My Internet Advertisement Covered by These Regulations?

Yes. If you are subject to part 7, your Internet advertisement is subject to these rules. The old part 7 makes it clear that any medium is covered. When these regulations were first issued in 1936, the Internet did not exist. This revision of part 7 makes it clear that the Internet is a covered medium.

How Can I Find a New Section From an "Old" Section in the Revised Part 7?

This chart is a cross-reference between the previous section numbers and the new section numbers:

CROSS REFERENCE TABLE—PREVIOUS PART 7 SECTIONS TO REVISED SECTIONS

Previous section	Revised section
7.1	7.1
7.2	7.2
7.3	7.15
7.3(a)	7.4
7.3(b)	7.5
7.4	7.6
7.10	7.10
7.20(a)	7.3
7.20(b)	7.8, 7.30
7.20(c)(1)	7.110
7.20(c)(1)	7.111
7.20(c)(2)	7.112

CROSS REFERENCE TABLE—PREVIOUS PART 7 SECTIONS TO REVISED SECTIONS—Continued

Previous section	Revised section
7.21	7.60
7.21(a)	7.61
7.21(b)	7.62
7.21(c)	7.63
7.22(a)	7.40
7.22(a)(3)	7.80
7.22(b)(1)	7.41
7.22(b)(2)	7.42
7.22(b)(3)	7.43
7.22(b)(4)	7.44
7.22(b)(5)	7.45
7.22(b)(6)	7.46
7.22(b)(7)	7.47
7.23(a)	7.50
7.23(b)	7.51
7.23(b)	7.52
7.23(c)	7.53
7.24(a)	7.70
7.24(b)	7.71
7.24(c)	7.72
7.24(d)	7.73
7.24(e)	7.74
7.24(f)	7.75
7.24(f)	7.77
7.24(f)	7.78
7.24(g)	7.76
7.24(h)	7.79
7.25(a)(1)	7.81
7.25(a)(2)	7.82
7.25(b)	7.83
7.25(c)	7.84
7.26	Omitted
7.27	7.90
7.27(a)	7.91
7.27(b)	7.91
7.27(c)	7.90
7.28(a)	7.31
7.28(b)(1)	7.33
7.28(b)(2)	7.33
7.28(b)(1)	7.32
7.28(c)	7.34
7.28(c)	7.35
7.28(c)	7.36
7.28(d)	7.37
7.28(e)	7.38
7.29(a)	7.300
7.29(a)(1)	7.301
7.29(a)(2)	7.302
7.29(a)(3)	7.303
7.29(a)(4)	7.304
7.29(a)(5)	7.305
7.29(a)(5)	7.306
7.29(a)(6)	7.320
7.29(a)(6)	7.321
7.29(b)	7.307
7.29(b)	7.308
7.29(c)	7.309
7.29(d)	7.310
7.29(d)	7.311
7.29(e)	7.312
7.29(f)	7.313
7.29(f)	7.314
7.29(g)	7.322
7.29(h)	7.323
7.30	7.3
7.31(a)	7.20
7.31(a)	7.21
7.31(b)	7.24
7.31(c)	7.25
7.31(d)	7.26

CROSS REFERENCE TABLE—PREVIOUS PART 7 SECTIONS TO REVISED SECTIONS—Continued

Previous section	Revised section
7.40	7.3
7.41(a)	7.20
7.41(a)	7.22
7.41(b)	7.26
7.42	7.23
7.50	7.3
7.50	7.200
7.50	7.201
7.51	7.11
7.51	7.12
7.51(a)	7.13
7.51(b)	7.14
7.52	7.210
7.52(a)	7.211
7.52(b)	7.212
7.52(c)	7.213
7.53(a)	7.220
7.53(b)	7.221
7.53(c)	7.222
7.53(d)	7.223
7.53(e)	7.224
7.54	7.300
7.54(a)(1)	7.301
7.54(a)(2)	7.302
7.54(a)(3)	7.303
7.54(a)(4)	7.304
7.54(a)(5)	7.305
7.54(a)(5)	7.306
7.54(a)(6)	7.307
7.54(a)(6)	7.308
7.54(a)(7)	7.309
7.54(b)(1)	7.330
7.54(b)(2)	7.331
7.54(c)(1)	7.313
7.54(c)(1)	7.314
7.54(c)(2)	7.332
7.54(c)(3)	7.333
7.54(d)(1)	7.334
7.54(d)(2)	7.335
7.54(e)	7.312
7.54(f)	7.336
7.54(g)	7.310
7.54(g)	7.311
7.54(h)	7.337
7.55(a)	7.340
7.55(b)(1)	7.350
7.55(b)(2)	7.351
7.55(b)(3)	7.353
7.60	7.9
7.71(a)	7.100
7.71(b)(1)	7.101
7.71(b)(2)	7.102
7.71(b)(3)	7.102
7.71(c)(1)	7.103
7.71(c)(2)	7.104
7.71(c)(3)	7.103
7.71(c)(3)	7.105
7.71(d)	7.106
7.71(e)	7.107
7.71(f)	7.108

How Can I Find an "Old" Section From the New Section in the Revised Part 7?

This chart shows the derivation of the new language from the old. It is a cross-reference between the revised section numbers and the previous section numbers.

DERIVATION REFERENCE TABLE—REVISED PART 7 SECTIONS TO PREVIOUS SECTIONS

Revised section	Previous section
Omitted	7.26
7.1	7.1
7.2	7.2
7.3	7.20(a), 7.30, 7.40, 7.50
7.4	7.3(a)
7.5	7.3(b)
7.6	7.4
7.7	Part 7 references to prior rulemaking decisions.
7.8	7.20(b)
7.9	7.60
7.10	7.10
7.11	7.51
7.12	7.51
7.13	7.51(a)
7.14	7.51(b)
7.15	7.3
7.20	7.31(a), 7.41(a)
7.21	7.31(a)
7.22	7.41(a)
7.23	7.42
7.24	7.31(b)
7.25	7.31(c)
7.26	7.31(d), 7.41(b)
7.30	7.30
7.31	7.28(a)
7.32	7.28(b)(1)
7.33	7.28(b)(1), 7.28(b)(2)
7.34	7.28(c)
7.35	7.28(c)
7.36	7.28(c)
7.37	7.28(d)
7.38	7.28(e)
7.40	7.22(a)
7.41	7.22(b)(1)
7.42	7.22(b)(2)
7.43	7.22(b)(3)
7.44	7.22(b)(4)
7.45	7.22(b)(5)
7.46	7.22(b)(6)
7.47	7.22(b)(7)
7.50	7.23(a)
7.51	7.23(b)
7.52	7.23(b)
7.53	7.23(c)
7.60	7.21
7.61	7.21(a)
7.62	7.21(b)
7.63	7.21(c)
7.70	7.24(a)
7.71	7.24(b)
7.72	7.24(c)
7.73	7.24(d)
7.74	7.24(e)
7.75	7.24(f)
7.76	7.24(g)
7.77	7.24(f)
7.78	7.24(f)
7.79	7.24(h)
7.80	7.22(a)(3)
7.81	7.25(a)(1)
7.82	7.25(a)(2)
7.83	7.25(b)

DERIVATION REFERENCE TABLE—REVISED PART 7 SECTIONS TO PREVIOUS SECTIONS—Continued

Revised section	Previous section
7.84	7.25(c)
7.90	7.27, 7.27(c)
7.91	7.27(a), 7.27(b)
7.100	7.71(a)
7.101	7.71(b)(1)
7.102	7.71(b)(2), 7.71(b)(3)
7.103	7.71(c)(1), 7.71(c)(3)
7.104	7.71(c)(2)
7.105	7.71(c)(3)
7.106	7.71(d)
7.107	7.71(e)
7.108	7.71(f)
7.110	7.20(c)(1)
7.111	7.20(c)(1)
7.112	7.20(c)(2)
7.200	7.50
7.201	7.50
7.210	7.52
7.211	7.52(a)
7.212	7.52(b)
7.213	7.52(c)
7.220	7.53(a)
7.221	7.53(b)
7.222	7.53(c)
7.223	7.53(d)
7.224	7.53(e)
7.300	7.29(a), 7.54
7.301	7.29(a)(1), 7.54(a)(1)
7.302	7.29(a)(2), 7.54(a)(2)
7.303	7.29(a)(3), 7.54(a)(3)
7.304	7.29(a)(4), 7.54(a)(4)
7.305	7.29(a)(5), 7.54(a)(5)
7.306	7.29(a)(5), 7.54(a)(5)
7.307	7.29(b), 7.54(a)(6)
7.308	7.29(b), 7.54(a)(6)
7.309	7.29(c), 7.54(a)(7)
7.310	7.29(d), 7.54(g)
7.311	7.29(d), 7.54(g)
7.312	7.29(e), 7.54(e)
7.313	7.29(f), 7.54(c)(1)
7.314	7.29(f), 7.54(c)(1)
7.320	7.29(a)(6)
7.321	7.29(a)(6)
7.322	7.29(g)
7.323	7.29(h)
7.330	7.54(b)(1)
7.331	7.54(b)(2)
7.332	7.54(c)(2)
7.333	7.54(c)(3)
7.334	7.54(d)(1)
7.335	7.54(d)(2)
7.336	7.54(f)
7.337	7.54(h)
7.340	7.55(a)
7.350	7.55(b)(1)
7.351	7.55(b)(2)
7.353	7.55(b)(3)

What Are the Technical Amendments ATF Is Making in This Rule?

We are making minor technical amendments to clarify the appropriate

ATF officer who is responsible for certain actions. These changes incorporate references to the “appropriate ATF officer” and to ATF delegation orders. These changes are necessary to more effectively administer these rules with the continued prospect of organizational changes. We have frequently found that our regulatory requirements do not match our organizational alignment. Sometimes we have made several reorganizational changes before the regulations are changed to reflect the current responsibilities. In the case of these regulations, there are named ATF officials whose titles are more than 10 years outdated. It is not unusual for the rules to require actions by officers whose title or function has changed several times. By amending the rules to cite “appropriate ATF officer” we can then make the necessary changes more easily in an ATF delegation order that we make available through our Distribution Center and publish on our Internet website. This ATF order delegates specific responsibilities to the “appropriate” ATF officer. We express these requirements in a new § 7.15.

What Changes Is ATF Making for Cross-References to Previous Rulemaking Decisions?

We are moving cross-references for previous Treasury Decisions to a new § 7.7. This cross-reference facilitates future updates of this important research tool for those who need this information.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because there are no new or revised recordkeeping or reporting requirements.

The Office of Management and Budget has previously approved the collections of information contained in this notice of proposed rulemaking, in accordance with the requirements of the Paperwork Reduction Act of 1980 or the Paperwork Reduction Act of 1995. The collection of information in this regulation is in the following sections:

INFORMATION COLLECTIONS IN PART 7

For the purpose of . . .	Old section	New section	OMB control No.
Declaration of sulfites	§ 722.(b)(6) ..	§ 7.46	1512–0469

INFORMATION COLLECTIONS IN PART 7—Continued

For the purpose of . . .	Old section	New section	OMB control No.
Name and address	§ 7.25	§§ 7.81–7.84	1512–0474

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply because this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities. Any final rule published as a result of this notice will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

We do not expect the final rule to have a significant secondary or incidental effect on a substantial number of small entities. Accordingly, we certify under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Internal Revenue Code of 1986, we have submitted this regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Executive Order 12866

We determined that this rule is not a significant regulatory action because it will not:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Drafting Information

The principal author of this document is William H. Foster, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 7

Advertising, Authority delegations, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and Containers, Reporting and recordkeeping requirements.

Proposed Rule

For the reasons set forth in the preamble, we propose to amend title 27, Code of Federal Regulations, by revising part 7 in its entirety as follows:

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 1. To incorporate the principles of plain language, revise part 7 to read as follows:

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES**Subpart A—What Is the Scope of The Regulations in This Part?**

Sec.

- 7.1 What do the regulations in this part cover?
- 7.2 To which jurisdictions do the regulations in this part apply?
- 7.3 How does State law affect the regulations in this part?
- 7.4 What ATF Forms must I use?
- 7.5 Where do I get ATF Forms?
- 7.6 What other regulations apply?
- 7.7 Which Treasury Decisions preceded the revision of this part?
- 7.8 Who must comply with the regulations in this part?
- 7.9 Do these regulations apply to malt beverages I export in bond?

Subpart B—Definitions

- 7.10 What terms must I know to understand these regulations?
- 7.11 What is a malt beverage “advertisement?”
- 7.12 What are examples of malt beverage advertisements?
- 7.13 Is my malt beverage label an advertisement?
- 7.14 Is a news article an advertisement?”
- 7.15 Who is the “appropriate ATF officer” for malt beverage labeling and advertising?

Subpart C—Labeling Requirements for Malt Beverages**Requirements for Certificates of Label Approval**

- 7.20 When must I obtain a certificate of label approval from ATF for a domestic malt beverage?

- 7.21 When must I obtain a certificate of label approval from ATF for an imported malt beverage?
- 7.22 How do I obtain a certificate of label approval?
- 7.23 When must I exhibit a certificate of label approval?
- 7.24 Must imported malt beverage labels be identical to the label on the certificate of label approval?
- 7.25 What if my imported malt beverage labels do not conform to my certificate of label approval?
- 7.26 Where do I find the ATF procedures for certificates of label approval?

General Label Requirements

- 7.30 Why must I label my malt beverages?
- 7.31 Must I use a contrasting background?
- 7.32 What size of type is acceptable for the alcohol content statement?
- 7.33 What size of type is acceptable for mandatory information other than the alcohol content?
- 7.34 Is English required for the label?
- 7.35 May I make statements in foreign languages?
- 7.36 May I use Spanish for malt beverages destined for Puerto Rico?
- 7.37 How must I attach my labels to the containers?
- 7.38 May I state information that is not required?

Mandatory Label Information

- 7.40 What information is required on my brand label?
- 7.41 What additional information is required for an imported malt beverage?
- 7.42 What additional information is required for malt beverages I bottle or pack for another person?
- 7.43 Am I required to include the alcohol content?
- 7.44 How must I label my malt beverage made with FD&C Yellow No. 5?
- 7.45 How must I label my malt beverage if saccharin is present?
- 7.46 How must I label my malt beverage if it contains sulfites?
- 7.47 How must I label my malt beverage if it contains aspartame?

Brand Names

- 7.50 What is the brand name?
- 7.51 What is a misleading brand name?
- 7.52 How can I fix a misleading brand name?
- 7.53 Are certain trade or brand names of foreign origin exempt from § 7.51?

Misbranding

- 7.60 What is “misbranding?”
- 7.61 What if my label doesn't have all the mandatory information?
- 7.62 On my cartons or cases may I use material that is prohibited on labels?

- 7.63 May I use containers that are permanently marked with someone else's name?

Class and Type

- 7.70 What is class and type?
 7.71 What is the class for a reconstituted malt beverage?
 7.72 What is "half and half?"
 7.73 What class designation may I use to label malt beverages with less than one-half of 1 percent alcohol by volume?
 7.74 What rules apply to class for ale, porter, and stout?
 7.75 What are the requirements for geographical names for distinctive types of malt beverages?
 7.76 What is a generic geographical name for distinctive types of malt beverages?
 7.77 What are examples of distinctive types of malt beverages with geographical names that are not generic?
 7.78 How may I designate Pilsner beer that I produce in the United States?
 7.79 How may I use a geographical name on other than a distinctive malt beverage type?

Name and Address

- 7.80 Where must I state my name and address?
 7.81 What name and address is required for domestic malt beverages?
 7.82 What name and address is acceptable if I pack or bottle for someone else?
 7.83 What name and address is required for imported malt beverages?
 7.84 What type of address must I state on my label?

Net Contents Statement

- 7.90 Where must I state the net contents of my container?
 7.91 How must I state net contents?

Alcohol Content

- 7.100 When may I state the alcohol content of my malt beverage?
 7.101 What measurement do I use to state alcohol content?
 7.102 How do I state alcohol content?
 7.103 What tolerance is permitted between actual alcohol content and the label statement of alcohol content?
 7.104 What is the acceptable tolerance for "low" or "reduced" alcohol malt beverages?
 7.105 What is the tolerance for a malt beverage I label with a "0.0%" alcohol content?
 7.106 When may I use the terms "low alcohol" or "reduced alcohol?"
 7.107 When may I use the term "non-alcoholic?"
 7.108 When may I use the term "alcohol free?"

Relabeling Malt Beverages

- 7.110 May I alter a malt beverage label already on the container?
 7.111 May I relabel a malt beverage?
 7.112 How do I get permission to relabel a malt beverage?

Subpart D—Advertising of Malt Beverages

- 7.200 Who must comply with these regulations?

- 7.201 Are there exceptions to advertising requirements?

Mandatory Advertising Statements

- 7.210 What statements are mandatory for malt beverage advertisements?
 7.211 What information is required about the responsible advertiser?
 7.212 What information is required for malt beverage class?
 7.213 Is there any exception to mandatory information?

Legibility of Mandatory Information

- 7.220 What are the requirements for legibility of mandatory information?
 7.221 What are the requirements for legibility on signs, billboards, or displays?
 7.222 May I place mandatory information in a separate part of my advertisement?
 7.223 May I combine mandatory information for more than one product?
 7.224 How apparent must the mandatory information be to viewers?

Subpart E—Prohibited Practices for Labeling and Advertising

- 7.300 What is covered by these prohibitions?

Malt Beverage Labeling and Advertisements

- 7.301 You must not use false or misleading statements.
 7.302 You must not disparage a competitor's products.
 7.303 You must not use obscene or indecent material.
 7.304 You must not use statements about testing and analyses that may mislead consumers.
 7.305 You must not use misleading statements about guarantees.
 7.306 You may use a statement for a money-back guarantee.
 7.307 You must not mislead consumers as to government authority for your malt beverage processes.
 7.308 You may use a municipal or State permit number.
 7.309 You must not mislead consumers as to government supervision of your malt beverage business.
 7.310 You must not use United States flags or other insignia.
 7.311 You must not use flags or insignia in a misleading manner.
 7.312 You must not use curative or therapeutic claims.
 7.313 You must not use words that may mislead as to alcoholic strength.
 7.314 What is not misleading as to alcoholic strength?

Additional Malt Beverage Labeling Practices

- 7.320 Your brand and trade names must not include misleading endorsements.
 7.321 What is an acceptable brand or trade name labeling endorsement?
 7.322 You must not use numerals that are misleading as to alcoholic content.
 7.323 You must not use prohibited labeling statements on coverings, cartons, or cases.

Additional Malt Beverage Advertisement Practices

- 7.330 You must not use advertisement statements inconsistent with your malt beverage labeling.
 7.331 You must not use an unapproved label in an advertisement.
 7.332 You may depict an approved label with alcohol content in a malt beverage advertisement.
 7.333 You may use an advertisement with an actual container showing an approved alcohol content label.
 7.334 You must not use misleading class statements.
 7.335 You must not use ale, porter, or stout designations in a misleading manner.
 7.336 Your advertisement must not confuse brands.
 7.337 You must not use deceptive advertising techniques.

Comparative Advertisements

- 7.340 May I use comparative advertising?

Taste Tests in Advertisements

- 7.350 May I use taste tests in malt beverage advertisements?
 7.351 What scientific procedures must I use for taste tests?
 7.352 Must I list the name and address of the taste test administrator?

Authority: 27 U.S.C. 205.

Subpart A—What Is the Scope Of The Regulations in This Part?

§ 7.1 What do the regulations in this part cover?

The regulations in this part relate to the labeling and advertising of malt beverages.

§ 7.2 To which jurisdictions do the regulations in this part apply?

This part applies to the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 7.3 How does State law affect the regulations in this part?

These regulations apply to malt beverage labeling and advertising in interstate commerce only to the extent that State law imposes similar requirements on malt beverages that are exclusively intrastate. You must comply with these regulations to the extent that the State imposes similar requirements on malt beverages that you remove for consumption or sale only in that State.

§ 7.4 What ATF Forms must I use?

The Director prescribes all forms required by these regulations. Follow the instructions on each form and furnish all of the required information. If you fail to follow instructions or to provide the information that we require, you may not receive the service or benefit that you request. To comply with labeling regulations use: Application for and Certification/

Exemption of Label/Bottle Approval, ATF Form 5100.31.

§ 7.5 Where do I get ATF Forms?

You can download ATF forms from our website at www.atf.treas.gov. You may also request forms by mail from the ATF Distribution Center. The mailing address is: ATF Distribution Center, P.O. Box 5950, Springfield, VA 22150-5950.

§ 7.6 What other regulations apply?

You may find other related regulations in these parts of title 27, Code of Federal Regulations (27 CFR):

- Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
- Part 4—Labeling and Advertising of Wine.
- Part 5—Labeling and Advertising of Distilled Spirits.
- Part 13—Labeling Proceedings.
- Part 16—Alcoholic Beverage Health Warning Statement.
- Part 25—Beer.
- Part 26—Liquors and Articles from Puerto Rico and the Virgin Islands.
- Part 27—Importation of Distilled Spirits, Wines and Beer.
- Part 71—Rules of Practice in Permit Proceedings.

§ 7.7 Which Treasury Decisions preceded the revision of this part?

We issued these Treasury Decisions in earlier rulemaking concerning malt beverage labeling and advertising:

Treasury decision (T.D.)	Federal Register citation	Date
6521	25 FR 13859	Dec. 29, 1960.
6672	28 FR 9637	Aug. 31, 1963.
	29 FR 3572	Mar. 20, 1964.
ATF-48	43 FR 13534	Mar. 31, 1978.
ATF-66	45 FR 40552	June 13, 1980.
ATF-92	46 FR 46912	Sept. 23, 1981.
ATF-94	46 FR 55097	Nov. 6, 1981.
ATF-180 ..	49 FR 61374	Aug. 8, 1984.
ATF-224 ..	51 FR 7673	Mar. 5, 1986.
ATF-225 ..	51 FR 8492	Mar. 12, 1986.
ATF-249 ..	52 FR 5956	Feb. 27, 1987.
ATF-280 ..	54 FR 3594	Jan. 25, 1989.
ATF-294 ..	55 FR 5421	Feb. 14, 1990.
ATF-339 ..	58 FR 21231	April 19, 1993.
ATF-344 ..	58 FR 40354	July 28, 1993.
ATF-372 ..	61 FR 20723	May 8, 1996.

§ 7.8 Who must comply with the regulations in this part?

You must mark, brand, or label your malt beverage containers and comply with these regulations if you are a malt beverage brewer, wholesaler, or importer, directly or indirectly, or through an affiliate, and you introduce malt beverages into interstate commerce, or you receive malt beverages in interstate or foreign commerce.

§ 7.9 Do these regulations apply to malt beverages I export in bond?

No, these regulations do not apply to malt beverages you export in bond.

Subpart B—Definitions

§ 7.10 What terms must I know to understand these regulations?

These terms have specific meanings for malt beverage labeling and advertising.

Act. The Federal Alcohol Administration Act.

Advertisement. See § 7.11.

Appropriate ATF officer. See § 7.15.

Brand label. The label carrying, in the usual distinctive design, the brand name of the malt beverage.

Bottler. Any person who places malt beverages in containers of a capacity of one gallon or less.

Certificate of label approval. An ATF Form, the Application for and Certification/Exemption of Label/Bottle Approval, ATF Form 5100.31.

Container. Any can, bottle, barrel, keg, or other closed receptacle, in any size or material, for the sale of malt beverages at retail.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.

Gallon. A U.S. gallon of 231 cubic inches at 39.1° F (4° C). All other liquid measures used are subdivisions of the gallon as defined.

Interstate or foreign commerce. Offering for sale, selling, shipping, delivering for sale or for shipment, removing from U.S. Customs custody, or otherwise introducing malt beverages into commerce between any State and any place outside the State, or between points within the same State but through any place outside the State, or commerce within the District of Columbia.

Malt beverage. A beverage made by the alcoholic fermentation of an infusion, decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts or products, and with or without:

- (1) Other malted cereals,
- (2) The addition of unmalted or prepared cereals,
- (3) Other carbohydrates or carbohydrate products prepared,
- (4) The addition of carbon dioxide, and
- (5) Other wholesome products suitable for human food consumption.

Other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part has the same meaning assigned to it by the Act.

Packer. Any person who places malt beverages in containers of a capacity in excess of one gallon.

Person. Any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

State. Any State of the United States including the District of Columbia and the Commonwealth of Puerto Rico.

These regulations. Part 7, title 27, Code of Federal Regulations (27 CFR part 7).

United States: The several States, the District of Columbia, and the Commonwealth of Puerto Rico.

We. In these regulations “we” refers to the Bureau of Alcohol, Tobacco and Firearms.

You and I. “You” and “I” refer to the person who must comply with these regulations.

§ 7.11 What is a malt beverage “advertisement”?

A malt beverage “advertisement” includes any written, broadcast, or verbal statement, illustration, or depiction in any medium that is:

- (a) In interstate or foreign commerce, or
- (b) Calculated to induce sales in interstate or foreign commerce, or
- (c) Disseminated by mail.

§ 7.12 What are examples of malt beverage advertisements?

This list does not include all forms of advertisement, but includes examples. “Advertisement” includes all material(s): written, printed, graphic, or any other media, including those in:

(a) Newspapers, magazines, trade booklets, menus, wine cards, leaflets, circulars, mailers, book inserts, catalogs, promotional materials, sales pamphlets, periodical literature, or similar publications;

(b) Matter accompanying malt beverage containers;

(c) Representations made on cases, in any billboard, sign, other outdoor advertisement, public transit card, or similar material;

(d) Radio or television broadcasts or Internet or other electronic communications;

(e) Any other media.

§ 7.13 Is my malt beverage label an advertisement?

No, labels on containers are not advertising under these regulations. However, you must comply with the labeling requirements of these regulations when you affix any label to

any malt beverage container, coverings, cartons, or cases of containers you use for sale at retail.

§ 7.14 Is a news article an advertisement?

No, we do not consider unpaid and unsolicited news material to be advertisements. For example, most articles, editorials, and news releases are not advertisements. We do, however, consider news material, articles, editorials, and news releases to be advertisements if you:

- (a) Pay or promise to pay for the material, directly or indirectly, or
- (b) Direct the material to be written.

§ 7.15 Who is the “appropriate ATF officer” for malt beverage labeling and advertising?

The “appropriate ATF officer” is the officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) who is authorized to perform the function that is required by a particular regulation. The Director delegates authorities in these regulations to certain ATF officers. You will find the specific “appropriate ATF officer” in the delegation order for part 7. As needed, we may periodically update the delegation order. On the effective date of this regulation the current delegation order is ATF O 1130.2A, Delegation Order “ Delegation of the Director’s Authorities in 27 CFR Part 4, 5, and 7, Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages. You may obtain the current delegation order:

- (a) By mail from: ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5190; or
- (b) By Internet at: <http://www.atf.treas.gov>.

Subpart C—Malt Beverage Labeling Requirements

Requirements for Certificates of Label Approval

§ 7.20 When must I obtain a certificate of label approval from ATF for a domestic malt beverage?

You must obtain a certificate of label approval from us if you:

- (a) Bottle or pack malt beverages, or
- (b) Remove malt beverages from the plant where they are bottled or packed.

§ 7.21 When must I obtain a certificate of label approval from ATF for an imported malt beverage?

You must obtain an approved certificate of label approval in order to obtain release of bottled imported malt beverages in containers from U.S. Customs custody. You must deposit the original or a copy of an approved certificate of label approval, ATF Form 5100.31, with the appropriate U.S. Customs officer at the port of entry.

§ 7.22 How do I obtain a certificate of label approval?

To obtain a certificate of label approval, you must submit an application to the appropriate ATF officer (see § 7.15) on Application for and Certification/Exemption of Label/Bottle Approval, ATF Form 5100.31. If we approve your label, we will issue your approved certificate to you.

§ 7.23 When must I exhibit a certificate of label approval?

You must exhibit your certificate of label approval upon the demand of any duly authorized representative of the United States Government or any duly authorized representative of a State or political subdivision of the State. You may exhibit an original or duplicate original of a certificate of label approval.

§ 7.24 Must imported malt beverage labels be identical to the label on the certificate of label approval?

Yes, except for certain permissible changes, your certificate of label approval must match the actual labels. You must present the original or copy of an approved certificate of label approval to obtain release from U.S. Customs custody. The certificate of label approval permits certain changes to labels. See the back of Certificate of Label Approval (ATF Form 5100.31) for details.

§ 7.25 What if my imported malt beverage labels do not conform to my certificate of label approval?

If the labels for your imported malt beverages in U.S. Customs custody do not conform to certificates of label approval issued by us, then you must relabel the malt beverages:

- (a) Prior to release, and
- (b) Under the supervision and direction of the U.S. Customs officers of the port at which the malt beverages are located.

§ 7.26 Where do I find the ATF procedures for certificates of label approval?

You will find the procedures regarding the issuance, denial, and revocation of certificates of label approval, as well as appeal procedures in part 13 of this chapter.

General Label Requirements

§ 7.30 Why must I label my malt beverage?

The Federal Alcohol Administration Act requires that, in compliance with these regulations, you must label, mark, and brand all malt beverages that you introduce into interstate or foreign commerce. For beverages that move only within a State, the Act requires you to take these actions to the extent that similar State law requires you to label, mark, and brand malt beverages.

§ 7.31 Must I use a contrasting background?

Yes. You must design your labels so that all statements required by these regulations are readily legible under ordinary conditions, and all such statements are on a contrasting background. This applies to all mandatory information under these regulations.

§ 7.32 What size of type is acceptable for the alcohol content statement?

You must state all portions of the alcohol content statement in the same size and kind of lettering and of equally conspicuous color. Unless State law requires otherwise, you must make the statement of alcohol content in script, type, or printing. Use a size of type in accordance with these requirements.

If the container is:	Then the size of the script, type, or printing of the alcohol content must be:
(a) 8 fluid ounces or less	Not smaller than 1 millimeter.
(b) More than 8 fl. oz	Not smaller than 2 millimeters.
(c) 40 fl. oz. or less	Not larger than 3 millimeters.
(d) Larger than 40 fl. oz	Not larger than 4 millimeters.

§ 7.33 What size of type is acceptable for mandatory information other than the alcohol content?

For mandatory information other than the alcohol content you must use a size of type in accordance with these requirements.

If . . .	Then the size of the script, type, or printing of all mandatory information must be:
(a) The mandatory information is stated among other descriptive or explanatory information.	More conspicuous than that of the descriptive or explanatory information that it appears with.
(b) The container is one-half pint or less	Not smaller than 1 millimeter.
(c) The container is more than one-half pint	Not smaller than 2 millimeters.

§ 7.34 Is English required for the label?

Yes, on malt beverage labels you must use the English language for all mandatory information other than the brand name.

§ 7.35 May I make statements in foreign languages?

Yes, you may make additional statements in foreign languages if the statements do not conflict with or contradict the requirements of these regulations.

§ 7.36 May I use Spanish for malt beverages destined for Puerto Rico?

Yes, you may use Spanish instead of English for malt beverage labels on containers you bottle or pack for consumption in Puerto Rico. If you use Spanish, you must also state the net contents in English.

§ 7.37 How must I attach my labels to the containers?

You must firmly affix labels. You must attach the labels to containers of malt beverages in such a way that they cannot be removed without a thorough application of water or other solvents.

§ 7.38 May I state information that is not required?

Yes, your labels may contain information other than the mandatory label information required by these regulations if the information:

- (a) Complies with the requirements of these regulations, and
- (b) Does not conflict with, or in any manner qualify, statements required by these regulations.

Mandatory Label Information**§ 7.40 What information is required on my brand label?**

On your brand label you must state your:

- (a) Brand name, in accordance with §§ 7.50 through 7.53,
- (b) Class, in accordance with §§ 7.70 through 7.79,
- (c) Name and address in accordance with §§ 7.80 through 7.84, and
- (d) Net contents in accordance with § 7.90 through 7.91.

§ 7.41 What additional information is required for an imported malt beverage?

In the case of imported malt beverages, you must state the name and

address of the importer on the brand label or on a separate front or back label in accordance with § 7.83.

§ 7.42 What additional information is required for malt beverages that I bottle or pack for another person?

If you bottle or pack malt beverages for a permit holder or retailer, you must include your name and address as the bottler or packer on the brand label or on a separate back or front label in accordance with § 7.82.

§ 7.43 Am I required to include the alcohol content?

If required by State law, you must list the alcohol content on the brand label or on a separate back or front label in accordance with §§ 7.100 through 7.108. Nothing in this section relieves you from complying with State law.

§ 7.44 How must I label a malt beverage made with FD&C Yellow No. 5?

If you use this coloring material, then you must include the statement: "Contains FD&C Yellow No. 5." on the brand label or on a separate back or front label.

§ 7.45 How must I label my malt beverage if saccharin is present?

When saccharin is present in the finished product, you must include the following statement, separate and apart from all other information, on the brand label or a back or front label:

Use of this malt beverage may be hazardous to your health. This malt beverage contains saccharin which has been determined to cause cancer in laboratory animals.

§ 7.46 How must I label my malt beverage if it contains sulfites?

(a) Where sulfur dioxide or a sulfiting agent is detected at a level of 10 or more parts per million, measured as total sulfur dioxide, you must include one of these:

- (1) "Contains sulfites" or
- (2) "Contains (a) sulfiting agent(s)" or
- (3) A statement identifying the specific sulfiting agent.

(b) The sulfite declaration may appear on a strip label or neck label instead of appearing on the front or back label.

(Approved by the Office of Management and Budget under Control No. 1512-0469.)

§ 7.47 How must I label my malt beverage if it contains aspartame?

(a) When the malt beverage contains aspartame you must include the following statement in accordance with Food and Drug Administration (FDA) regulations, in capital letters, separate and apart from all other information: PHENYLKETONURICS: CONTAINS PHENYLALANINE

(b) This statement may appear on the brand label, or any front or back label.

Brand Names**§ 7.50 What is the brand name?**

The "brand name" is the trade name you use when you sell your malt beverage. You must have a brand name for your malt beverage. If you do not develop a brand name to sell your malt beverage, then you must use your name as the brand name for the purpose of these regulations.

§ 7.51 What is a misleading brand name?

A brand name is misleading if it creates any erroneous impression or inference as to the age, origin, identity, or other characteristics of the malt beverage. We may find a brand name misleading by itself or in association with other printed or graphic matter. You must not use a misleading brand name.

§ 7.52 How can I fix a misleading brand name?

One way to fix a misleading brand name so that it does not convey an erroneous impression as to the age, origin, identity, or other characteristics of the malt beverage is to qualify your misleading brand name by adding the word "brand."

§ 7.53 Are certain trade or brand names of foreign origin exempt from § 7.51?

Some trade or brand names of foreign origin are exempt from the misleading prohibition in § 7.51. You may use a trade or brand name of foreign origin that meets these conditions:

(a) It was registered in the United States Patent Office on or before August 29, 1935;

(b) It was used by you or your predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935;

(c) The trade or brand name is qualified by the name of the location in the United States where you produce the malt beverage; and

(d) The qualification is as conspicuous as the trade name or brand.

Misbranding

§ 7.60 What is "misbranding?"

The Act provides that malt beverage containers must bear the labels required by these regulations. If your labels do not conform to these requirements then the law provides that your containers are misbranded.

§ 7.61 What if my label doesn't have all the mandatory information?

Your malt beverage is misbranded if the container does not have a brand label (or a brand label and other permitted labels) that:

(a) Contains the mandatory label information as required by §§ 7.40 through 7.47, and

(b) Conforms to the general requirements specified in these regulations.

§ 7.62 On my cartons or cases may I use material that is prohibited on labels?

No, your malt beverage is misbranded if you use any material intended for retail use that contains any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by these regulations. Examples of materials include:

- (a) Containers,
- (b) Caps on containers,
- (c) Labels on the containers, or any carton, case, or other covering of the container, and
- (d) Any written, printed, graphic, or other matter accompanying the container to the consumer.

§ 7.63 May I use containers that are permanently marked with someone else's name?

No, your containers are misbranded if they are marked, branded, or burned with the name of a person other than the name required for the brand label.

Class and Type

§ 7.70 What is class and type?

You must state on your brand label the class of your malt beverage, and if desired, you may state the type of malt beverage. Class is a designation of malt beverage known to the trade, such as "beer," "ale," "porter," "stout," "lager," or "malt liquor." You may also further distinguish a malt beverage by using names known to the trade. If the malt beverage is not known to the trade under a particular designation, you must state a distinctive or fanciful

name, together with an adequate and truthful statement of the composition of the malt beverage. We consider this statement to be a statement of class and type for the purposes of these regulations.

§ 7.71 What is the class for a reconstituted malt beverage?

Regulations permit you to reconstitute any malt beverage that you have concentrated by the removal of water. You may reconstitute the malt beverage only by the addition of water and carbon dioxide. You must label these reconstituted malt beverages in the same manner as malt beverages that have not been concentrated and reconstituted. However, you must show the class designation of these beverages in accordance with these conditions. You must:

(a) Show the statement: "PRODUCED FROM _____ CONCENTRATE" together with the class designation,

(b) Use the appropriate class designation in the blank, and

(c) Show all parts of the class designation in lettering of substantially the same size and kind.

§ 7.72 What is "half and half?"

You may designate a malt beverage as "half and half" only if it is composed of equal parts of two classes of malt beverages. You must conspicuously state the names of both together with the designation "half and half."

§ 7.73 What class designation may I use to label malt beverages with less than one-half of 1 percent alcohol by volume?

(a) For malt beverages containing less than one-half of 1 percent (0.5%) of alcohol by volume you must list the class as one of the following:

- (1) "Malt beverage,"
- (2) "Cereal beverage," or
- (3) "Near beer." If you use the designation "near beer," both words must appear in the same size and style of type, in the same color of ink, and on the same color background.

(b) You must not use the class designations "beer," "lager beer," "lager," "ale," "porter," or "stout," or any other class or type designations that are commonly applied to malt beverages containing one-half of 1 percent (0.5%) or more of alcohol by volume.

§ 7.74 What rules apply to class for ale, porter, and stout?

You must not use "ale," "porter," or "stout" unless your malt beverage:

- (a) Is fermented at comparatively high temperature,
- (b) Possesses the characteristics generally attributed to "ale," "porter," or "stout," and

(c) Is produced with no coloring or flavoring materials other than those recognized in standard brewing practices.

§ 7.75 What are the requirements for geographical names for distinctive types of malt beverages?

You may use geographical names for distinctive types of malt beverages only if:

(a) The malt beverage is produced in the particular region indicated by the name;

(b) We find under § 7.76 that the name is generic; or

(c) The malt beverage conforms to the designated type and together with the name, and in lettering equally visible as the name, there must appear:

- (1) The word "type,"
- (2) The word "American," or
- (3) Some other statement indicating the true place of production.

§ 7.76 What is a generic geographical name for distinctive types of malt beverages?

A generic geographical name is one that by usage and common knowledge has lost its geographical significance as a place of origin for the product. We determine which geographical names are generic. An example of a generic geographical name is "India Pale Ale."

§ 7.77 What are examples of distinctive types of malt beverages with geographical names that are not generic?

These are examples of distinctive types of beer with geographical names that are not generic:

Dortmund, Dortmunder, Vienna, Wien, Wiener, Bavarian, Munich, Munchner, Salvator, Kulmbacher, Wurtzburger.

§ 7.78 How may I designate Pilsner beer that I produce in the United States?

You may designate beer you produce in the United States as "Pilsen," "Pilsener," or "Pilsner" without further modification if it conforms to that type.

§ 7.79 How may I use a geographical name on other than a distinctive malt beverage type?

(a) You may use geographical names that are not names for distinctive types of malt beverages if:

(1) The malt beverage is produced in the particular place or region indicated in the name; or

(2) We determine the brand name is not misleading as to origin of the malt beverage.

(b) If we find that your geographical name is misleading you must not use the name. One method to prevent a name from being misleading is to

qualify the geographical name by adding the word "brand."

Name and Address

(Approved by the Office of Management and Budget under control number 1512-0474)

§ 7.80 Where must I state my name and address?

You must state your name and address:

- (a) On the brand label, or
- (b) By blowing, branding, or burning it into the container.

§ 7.81 What name and address is required for domestic malt beverages?

On labels of containers of domestic malt beverages you must state your name as the bottler or packer and the place where you bottle or pack. You may show your principal place of business instead of the actual place where you bottle or pack if the address you show is a location where you also bottle or pack. We may disapprove your listing of a principal place of business if its use creates a false or misleading impression as to the geographic origin of the malt beverage.

§ 7.82 What name and address is acceptable if I pack or bottle for someone else?

If you bottle or pack malt beverages for another person you:

- (a) Must state your name and address, and
- (b) May state the name and address of the other person immediately after the words "bottled for," "distributed by," or some other similar appropriate phrase.

§ 7.83 What name and address is required for imported malt beverages?

If you are importing malt beverages as a permittee who is the importer, an exclusive agent, a sole distributor, or any other person responsible for the importation, then you:

- (a) Must state on labels of containers of imported malt beverages the words "imported by" or a similar appropriate phrase followed immediately by the name of the importer and the importer's principal place of business in the United States, and
- (b) May state the name and principal place of business of the foreign manufacturer, bottler, packer, or shipper. If State or foreign law requires the name and place of business, then they must appear on the label.

§ 7.84 What type of address must I state on my label?

(a) You must state your post-office address. You may omit your street address and use only your city and state.

(b) You may state additional addresses if:

- (1) You are actively engaged in malt beverage business at the additional addresses, and
- (2) You state, together with the additional address, an appropriate description of the business you conduct at that location.

Net Contents Statement

§ 7.90 Where must I state the net contents of my container?

You must state the net contents of your container on the brand label or by blowing, branding, or burning it into the container. You do not need to state the net contents on any label if you have the net contents blown, branded, or burned in the container in plainly legible characters, which are clear and not obscured in any way.

§ 7.91 How must I state net contents?

You must state net contents in accordance with this chart. Express fractions in their lowest denominations.

NET CONTENTS STATEMENTS

If your container is:	Then you must state net contents:
(a) Less than 1	in fluid ounces, or fractions of a pint.
(b) 1 pint	1 pint.
(c) More than 1 pint, but less than 1 quart	in fractions of a quart, or in pints and fluid ounces.
(d) 1 quart	1 quart.
(e) More than 1 quart, but less than 1 gallon	in fractions of a gallon, or in quarts, pints, and fluid ounces.
(f) 1 gallon	1 gallon.
(g) More than 1 gallon	in gallons and fractions of a gallon.

Alcohol Content

§ 7.100 When may I state the alcohol content of my malt beverage?

(a) You may state the alcohol content and the percentage and quantity of the original gravity or extract on a label. When you state alcohol content you must use:

(1) The statement required by these regulations, or

(2) If it is different, the manner of statement required under State law.

(b) Nothing in this section relieves you from complying with State law.

§ 7.101 What measurement do I use to state alcohol content?

You must state the alcohol content in percent of alcohol by volume. You must

not use percent by weight, proof, ranges, or maximums or minimums.

§ 7.102 How do I state alcohol content?

State the alcohol content of your malt beverage in accordance with these requirements:

- (a) You must use one of these options:
 - (1) "Alcohol ___ percent by volume,"
 - (2) "Alcohol by volume ___ percent,"
 - (3) "___ percent alcohol by volume,"
- or
- (4) "___ percent alcohol/volume."
- (b) You may use these substitutions:
 - (1) "Alc" for alcohol,
 - (2) "Vol" for volume, and
 - (3) "%" for percent.
- (c) State alcohol content as follows:

(1) If your malt beverage contains 0.5 percent alcohol by volume, you must state alcohol content to the nearest one tenth of a percent.

(2) If your malt beverage contains less than 0.5 percent alcohol by volume, you may state alcohol content in one hundredths of a percent.

§ 7.103 What tolerance is permitted between actual alcohol content and the label statement of alcohol content?

We accept these listed tolerances between the actual alcohol content of your malt beverage and the alcohol content you state on the label.

If your malt beverage:	An acceptable tolerance is:
(a) Contains 0.5 percent or more alcohol by volume.	any malt beverage you label as containing 0.5 percent or more alcohol by volume must not contain less than 0.5 percent alcohol by volume, regardless of any tolerance. Otherwise, 0.3 percent, either above or below the stated percentage of alcohol. The actual alcoholic content must not exceed the labeled alcoholic content.
(b) Contains less than 0.5 percent alcohol by volume.	

§ 7.104 What is the acceptable tolerance for “low” or “reduced” alcohol malt beverages?

For malt beverages which you label as “low alcohol” or “reduced alcohol” the actual alcohol content must not equal or exceed 2.5 percent alcohol by volume, regardless of any tolerance permitted by § 7.103.

§ 7.105 What is the tolerance for a malt beverage I label with “0.0 %” alcohol content?

There is no tolerance here. You may label a malt beverage with an alcoholic content of 0.0 percent alcohol by volume only if:

- (a) You also label it as “alcohol free,” and
- (b) It contains no alcohol.

§ 7.106 When may I use the terms “low alcohol” or “reduced alcohol?”

You may use “low alcohol” or “reduced alcohol” only on malt beverages containing less than 2.5 percent alcohol by volume.

§ 7.107 When may I use the term “non-alcoholic?”

You may use “non-alcoholic” on malt beverages only if you also use it together with the statement: “contains less than 0.5 percent (or .5%) alcohol by volume.” This statement must be in readily legible printing on a completely contrasting background.

§ 7.108 When may I use the term “alcohol free?”

You may use “alcohol free” only on malt beverages containing no alcohol.

Relabeling Malt Beverages

§ 7.110 May I alter a malt beverage label already on the container?

No, the Act provides that it is unlawful to alter, mutilate, destroy, obliterate, or remove any mark, brand,

or label on malt beverages you hold for sale in interstate or foreign commerce, or after shipment in interstate or foreign commerce, except as authorized by Federal law. You may relabel the malt beverage with prior permission from us.

§ 7.111 May I relabel a malt beverage?

You may obtain permission to add additional labeling or to relabel malt beverages in containers if additional labeling or relabeling is justified to comply with:

- (a) These regulations, or
- (b) Requirements of State law.

§ 7.112 How do I get permission to relabel a malt beverage?

You must file a written application for permission to relabel. File with the appropriate ATF officer (see § 7.15). You must submit:

- (a) Two complete sets of the old labels,
- (b) Two complete sets of any proposed labels, and
- (c) A statement of the:
 - (1) Reasons for relabeling,
 - (2) Quantity and the location of the malt beverages, and
 - (3) Name and address of the person who will relabel.

Subpart D—Advertising of Malt beverages

§ 7.200 Who must comply with these regulations?

You must comply with these regulations if you are a malt beverage brewer, wholesaler, or importer and you publish or disseminate, or cause to be published or disseminated, any malt beverage advertisement, directly or indirectly, or through an affiliate.

§ 7.201 Are there exceptions to advertising requirements?

There are two exceptions to these requirements. These regulations do not apply to:

(a) Outdoor advertising in place on September 7, 1984: but the rules apply upon replacement, restoration, or renovation of that advertising; or

(b) The retailer, publisher, broadcaster, or provider of any advertising medium unless you are in business as a malt beverage brewer, wholesaler, bottler, or importer, directly or indirectly, or through an affiliate.

Mandatory Advertising Statements

§ 7.210 What statements are mandatory for malt beverage advertisements?

All malt beverage advertisements must comply with these regulations and state the:

- (a) Responsible advertiser (see § 7.211), and
- (b) Malt beverage class (see § 7.212).

§ 7.211 What information is required about the responsible advertiser?

The advertisement must state the name, city and state of the brewer, bottler, packer, wholesaler, or importer responsible for its publication, broadcast, or Internet content.

§ 7.212 What information is required for malt beverage class?

The advertisement must contain a conspicuous statement of the class to which the malt beverage belongs, corresponding to the statement of class these regulations require to appear on the label of the product. (See §§ 7.70–7.79)

§ 7.213 Is there any exception to mandatory information?

Yes, there are these exceptions to mandatory information.

When your advertisement:	You may:
(a) Refers to: A general malt beverage line, or all of the malt beverage products of one company, whether by the company name or by the brand name common to all the malt beverages in the line.	state only the name and address of the responsible advertiser.
(b) Refers to only one type of malt beverage marketed under the specific brand name.	not use the exception. State the name and address of the responsible advertiser and the class.
(c) Is on consumer specialty items	state only: (1) the company name, or (2) brand name of the product.

Legibility of Mandatory Information**§ 7.220 What are the requirements for legibility of mandatory information?**

In any written, printed, or graphic advertisement, all statements you make to comply with these regulations must be in lettering or type size sufficient to be conspicuous and readily legible.

§ 7.221 What are the requirements for legibility on signs, billboards, or displays?

In the case of signs, billboards, or displays your name and address may appear in type size or lettering smaller than the other mandatory information, provided that the information is legible upon closer examination of the sign or billboard.

§ 7.222 May I place mandatory information in a separate part of my advertisement?

No, you must clearly state mandatory information as a part of the advertisement. You must not separate mandatory information in any manner from the remainder of the advertisement.

§ 7.223 May I combine mandatory information for more than one product?

No, you must clearly separate statements of mandatory information for two or more products.

§ 7.224 How apparent must the mandatory information be to viewers?

You must state mandatory information in print, electronic and audiovisual media so that it is readily apparent to the persons viewing the advertisement.

Subpart E—Prohibited Practices For Labeling and Advertising**§ 7.300 What is covered by these prohibitions?**

These prohibitions may apply to:

- (a) The use for sale to the consumer of:
 - (1) Containers of malt beverages,
 - (2) Labels on malt beverage containers,
 - (3) Labels on shipping containers,
 - (4) Cartons, cases, or individual coverings of malt beverage containers, and
 - (5) Written, printed, graphic, or other matter accompanying malt beverage containers.
- (b) Malt beverage advertisements.

Malt Beverage Labeling and Advertisements**§ 7.301 You must not use false or misleading statements.**

For malt beverage labels and advertisements you must not use any statement that:

- (a) Is false or untrue in any particular, or
- (b) Tends to create a misleading consumer impression, whether or not the statement is true or false, either directly, by ambiguity, omission, inference, or by addition of irrelevant, scientific or technical matter.

§ 7.302 You must not disparage a competitor's products.

Your malt beverage labels and advertisements must not disparage a competitor's products.

§ 7.303 You must not use obscene or indecent material.

You must not use labels and advertisements with any statement, design, device, or representation that is obscene or indecent.

§ 7.304 You must not use statements about testing and analyses that may mislead consumers.

You must not use any statement, design, device, or representation relating to analyses, standards, or tests, whether these are true or false, that is likely to mislead the consumer.

§ 7.305 You must not use misleading statements about guarantees.

You must not use any statement, design, device, or representation relating to any guarantee, whether these are true or false, that is likely to mislead the consumer.

§ 7.306 You may use a statement for a money-back guarantee.

Malt beverage labels and advertisements may include money-back guarantee statements.

§ 7.307 You must not mislead consumers as to government authority for your malt beverage processes.

You must not use statements that may mislead consumers to believe that your malt beverage is manufactured or processed under any government authority.

- (a) Such statements include:
 - (1) Simulations of government stamps,
 - (2) Designs that resemble or simulate a stamp of the United States Government or of any State or foreign government, and
 - (3) Any statement that your malt beverage is brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, Federal, or foreign government authorization, law, or regulation.
- (b) Your label may include:
 - (1) A stamp authorized or required by the United States Government or any State or foreign government,

(2) A statement that is required or specifically authorized by Federal, State, or municipal, law or regulation, and

(3) A statement that is required or specifically authorized by the laws or regulations of the foreign country where the malt beverage is produced.

§ 7.308 You may use a municipal or State permit number.

If you display a municipal or State permit number on your label or in advertisement, you may not use any additional statement to accompany the permit number, except that you may use an additional statement that is required by State law.

§ 7.309 You must not mislead consumers as to government supervision of your malt beverage business.

You must not use malt beverage labels or advertisements with statements that imply governmental supervision over production, bottling, or packing of malt beverages. Examples of these statements include:

- (a) "Bonded"
- (b) "Bottled in bond"
- (c) "Aged in bond"
- (d) "Bonded age"
- (e) "Bottled under customs supervision," or
- (f) Phrases containing these or synonymous terms.

§ 7.310 You must not use United States flags or other insignia.

You must not use malt beverage labels or advertisements that contain any statement, design, device, or pictorial representation that relate, directly or indirectly, to:

- (a) The armed forces of the United States,
- (b) The United States flag, or
- (c) Any emblem, seal, insignia, or decoration associated with the United States flag or armed forces.

§ 7.311 You must not use flags or insignia in a misleading manner.

You must not use malt beverage labels or advertisements that contain misleading flags or insignia. Examples include: flags, statements, designs, devices, seals, coats of arms, crests, other insignia, or pictorial representations of these. Such labels or advertisements are misleading if a consumer may falsely believe the malt beverage is:

- (a) Endorsed by,
 - (b) Made by,
 - (c) Used by,
 - (d) Produced by,
 - (e) Produced under the supervision of,
- or

(f) Made in accordance with the specifications of the person whom the flag or insignia represents.

§ 7.312 You must not use curative and therapeutic claims.

You must not use malt beverage labels or advertisements with misleading curative or therapeutic claims. Examples include any statements, designs, representations, pictorial representations, or devices that represent malt beverage consumption as having curative or therapeutic effects. The claims are misleading if they:

- (a) Are untrue in any way, or
- (b) Tend to create a misleading impression.

§ 7.313 You must not use words that may mislead as to alcoholic strength.

Your labels and advertisements must not use words that are misleading as to the alcoholic strength of your malt beverage. You must not use misleading numerals, letters, characters, figures, or similar words or statements. For example, you must not use these terms:

- (a) "Strong,"
- (b) "Full strength,"
- (c) "Extra strength,"
- (d) "High test,"
- (e) "High proof,"
- (f) "Pre-war strength," or
- (g) "Full old-time alcoholic strength."

§ 7.314 What is not misleading as to alcoholic strength?

You may use words or statements of alcoholic strength or alcohol content under these conditions.

(a) If State law requires you to include alcoholic strength or content statements on your labels or in your advertisements.

(b) You may use the terms "low alcohol," "reduced alcohol," "non-alcoholic," and "alcohol-free," in accordance with §§ 7.106, 7.107, and 7.108.

(c) You may use a malt beverage alcohol content statement in accordance with §§ 7.100 through 7.108.

Additional Malt Beverage Labeling Practices

§ 7.320 Your brand and trade names must not include misleading endorsements.

You must not use a brand or trade name that is misleading. Brand or trade names are misleading if:

- (a) You use the name of:
 - (1) Any living individual of public prominence,
 - (2) An existing private or public organization,
 - (3) A name that is a simulation or an abbreviation of a living individual or organization, or

(4) Any graphic, pictorial, or emblematic representation of these individuals or organizations; and

(b) The use of the name is likely to mislead a consumer to falsely believe the individual or organization:

- (1) Endorses,
- (2) Uses,
- (3) Produces,
- (4) Supervises production of, or
- (5) Gives specifications to produce the malt beverage.

§ 7.321 What is an acceptable brand or trade name labeling endorsement?

Brand or trade names are not misleading if you use the name of any person in business as a malt beverage producer, importer, bottler, packer, wholesaler, retailer, or warehouseman. You may also use the name of any living individual of public prominence, or an existing private or public organization, provided that you or your predecessors used the trade or brand name prior to August 29, 1935.

§ 7.322 You must not use numerals that are misleading as to alcoholic content.

Your malt beverage labels must not contain statements that consumers may consider as statements of alcoholic content. Examples include: statements, designs, or devices, whether in the form of numerals, letters, characters, figures, or otherwise. However, you may use statements as required by State law, or as permitted by §§ 7.100 through 7.108.

§ 7.323 You must not use prohibited labeling statements on coverings, cartons, or cases.

For retail packaging and other materials you may use statements and graphics that are allowed by these regulations. You must not use any statements, graphic pictorials, emblematic representations, or other matter, that are prohibited on labels or containers. For malt beverages these prohibitions apply to:

- (a) Individual coverings,
- (b) Cartons,
- (c) Cases,
- (d) Other container wrappers, and
- (e) Any written, printed, graphic, or other matter accompanying the container.

Additional Malt Beverage Advertisement Practices

§ 7.330 You must not use advertisement statements inconsistent with your malt beverage labeling.

You must not use malt beverage advertisement statements that are inconsistent with your labeling statements.

§ 7.331 You must not use an unapproved label in an advertisement.

Any label you depict on a bottle in an advertisement must be a reproduction of an approved label.

§ 7.332 You may depict an approved label with alcohol content in a malt beverage advertisement.

In any advertising media you may depict an approved malt beverage label that bears a statement of alcoholic content permitted under §§ 7.100 through 7.108. The statement of alcohol content on the label must not appear more prominently in the advertisement than it does on the approved label.

§ 7.333 You may use an advertisement with an actual container showing an approved alcohol content label.

In any advertising media you may display an actual malt beverage container showing the approved label bearing a statement of alcohol content permitted under §§ 7.100 through 7.108.

§ 7.334 You must not use misleading class statements.

Your advertisements must not use misleading statements as to the class of your malt beverage. If your malt beverage contains less than one-half of 1 percent alcohol by volume you must not use:

- (a) "Beer,"
- (b) "Lager beer,"
- (c) "Lager,"
- (d) "Ale,"
- (e) "Porter"
- (f) "Stout," or
- (g) Any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 percent or more alcohol by volume.

§ 7.335 You must not use "ale," "porter," or "stout" designations in a misleading manner.

Your advertisements may use designations for "ale," "porter," or "stout" only when your malt beverage:

- (a) Is fermented at a comparatively high temperature,
- (b) Possesses the characteristics generally attributed to "ale," "porter," or "stout," and
- (c) Is produced without the use of coloring or flavoring materials other than those recognized in standard brewing practices.

§ 7.336 Your advertisement must not confuse brands.

Your advertisement must not lead to brand confusion.

(a) This provision applies to your representations in:

- (1) One advertisement,
- (2) Two or more advertisements in one issue of a periodical or newspaper, and

(3) One piece of other written, printed, or graphic matter.

(b) You must not advertise two or more different malt beverage brands if any of the following occur:

(1) The advertisement tends to create an impression that representations you make for one brand applies to the another brand;

(2) The representations are contrary to any provision of the regulations in this part; or

(3) The representations are in any respect untrue.

§ 7.337 You must not use deceptive advertising techniques.

You must not use malt beverage advertisements that use subliminal or similar advertising techniques. These prohibited advertisements include: the use of any device or technique that conveys, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that

cannot be perceived at a normal level of awareness.

Comparative Advertisements

§ 7.340 May I use comparative advertising?

Yes, you may use comparative advertising that is not disparaging of a competitor's product.

Taste Tests in Advertisements

§ 7.350 May I use taste tests in malt beverage advertisements?

Yes, you may use taste test results in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

§ 7.351 What scientific procedures must I use for taste tests?

You must use a taste test procedure that meets scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the Manual on Sensory

Testing Methods, ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68-15545.

§ 7.352 Must I list the name and address of the taste test administrator?

Yes, if you use a taste test in your advertisement, you must also make a statement in the advertisement providing the name and address of the taste test administrator.

Signed: August 17, 2001.

Bradley A. Buckles,
Director.

Approved: May 14, 2002.

Timothy E. Skud,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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