

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7, and 13

[Notice No. 954; Re: T.D. ATF-483]

RIN 1512-AC87

Organic Claims in Labeling and Advertising of Alcohol Beverages (2002R-288P)

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

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: ATF is proposing to finalize temporary regulations published elsewhere in this separate part that amend the alcohol labeling and advertising rules to cross-reference the United States Department of Agriculture's (USDA) National Organic Program (NOP) rules. Any alcohol beverage labeled or advertised with an organic claim must comply with both NOP rules administered by the USDA and the applicable rules administered by ATF. In this notice of proposed rulemaking, we invite comments on the temporary rule.

DATES: Written comments must be received by December 9, 2002.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 954);
- 202-927-8525 (Facsimile);
- nprm@atfhq.atf.treas.gov (E-mail);
- <http://www.atf.treas.gov> (Online—A comment form is available with this copy of the notice).

See the "Public Participation" section of this notice for specific requirements, as well as information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Richard Evanchec, Alcohol Labeling and Formulation Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202-927-8140; e-mail RJEvanchec@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION: Please see the T.D. ATF-483 published in the "Rules and Regulations" section of today's issue of the **Federal Register** for a discussion of our temporary and proposed changes to parts 4, 5, 7, and 13.

Public Participation

We request comments from anyone interested. We specifically request comments on the clarity of the temporary rule and how we could make it easier to understand. We will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can.

You may view comments by appointment at the ATF Reading Room, Public and Governmental Affairs, room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per page. If you want to view or request copies of comments, telephone the ATF Librarian at 202-927-7890.

For your convenience, we will post comments received in response to this notice on the ATF Web site. All comments posted on our Web site will show the name of the commenter but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reading Room. To access online copies of the comments on this temporary rule, visit <http://www.atf.treas.gov/> and select "Regulations," then "Notices of proposed rulemaking (Alcohol)." Next, select "View Comments" under this notice number. Finally, select "Notice of Proposed Rulemakings Comments" and this notice number.

We do not recognize any submitted material as confidential. We will disclose all information on comments and commenters. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

You may submit comments in any of five ways.

- **By Mail:** Send written comments to ATF at the address listed in the **ADDRESSES** section.
- **By Facsimile:** Submit comments by facsimile transmission to 202-927-8525. We will not acknowledge receipt. Comments transmitted as facsimiles will be treated as originals, and they must—
 - (1) Be legible;
 - (2) Reference this Notice number;
 - (3) Be on 8.5-by 11-inch paper;
 - (4) Contain a legible, written signature; and
 - (5) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- **By e-mail:** Send comments to nprm@atfhq.atf.treas.gov. We will not acknowledge receipt of e-mail. We will

treat e-mailed comments as originals. Comments transmitted as electronic-mail must—

- (1) Contain your name, mailing address, and e-mail address; and
- (2) Reference this Notice number on the subject line.

- **Online:** See the ATF Internet Web site at <http://www.atf.treas.gov>. We provide a comment form with the online copy of this notice.

In Person: Write to the Director to ask for a public hearing. The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Analyses and Notices

Administrative Procedure Act

We issued the associated temporary rule without prior notice or public procedure under 5 U.S.C. 553(b) and without it being subject to the effective date limitation in section 553(d) for two reasons. First, the temporary rule merely cross-references and incorporates the NOP rules as they relate to alcohol beverage labeling. The mandatory compliance date for the NOP rules is October 21, 2002. Second, we are not imposing new requirements. By this notice, we are allowing interested persons an opportunity to comment.

Regulatory Flexibility Act

A regulatory flexibility analysis is not required. Implementation of this proposed rule would not significantly impact a substantial number of small entities.

We do not endorse products when we approve labels that make organic claims. These regulations merely allow bottlers to more accurately describe their products to consumers and help consumers identify the alcohol beverages they purchase. Thus, any benefit derived from the use of an organic claim results from a proprietors' own efforts and from consumer acceptance of products that comply with the rules of the NOP.

Paperwork Reduction Act

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

Executive Order 12866

We have determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Drafting Information

Marjorie Ruhf of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, drafted this document. Employees of the Treasury Department and USDA, as well as other ATF

employees, participated in its development.

Signed: August 19, 2002.

Bradley A. Buckles,
Director.

Approved: September 6, 2002.

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