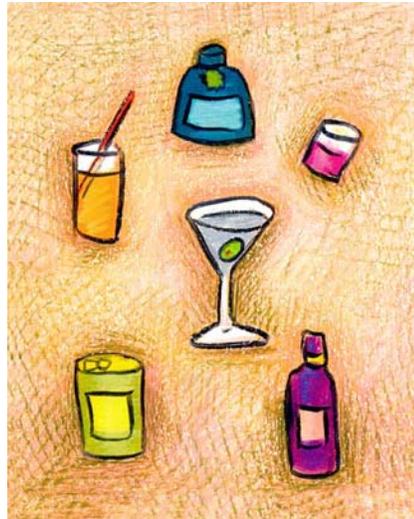


Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages; Request for Public Comment



**Agency: Alcohol and Tobacco Tax and Trade Bureau, Treasury.
Federal Register: April 29, 2005
(Volume 70, Number 82)
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**By: Group of Students at Florida International University
WBBA Group 18, MAN4701**

**Sheila Herrera
Argerie Matute
Angela Navas
Maylen Santana
Ivonne Ubieta**

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I. Proposed Rule Project Roles and Responsibilities

Proposed Rule Subject:

Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages; Request for Public Comment. Federal Register: April 29, 2005 (Volume 70, Number 82).

Brief Summary of Proposed Rule and Contributor Responsibilities:

Our position on the Labeling and Advertising for Alcoholic Beverages is “Against” more labeling.

Maylen Santana	Introduction to Paper, Gathering and Preparing the Survey Results, Contacting Stakeholders, and Conclusion.
Sheila Herrera	Researched and prepared report for Part A of Proposed Rule which consisted of the Labeling for Calorie and Carbohydrate Claims, Contacting Stakeholders and gathering information regarding their opinion on this subject.
Angela Navas	Researched and prepared report for Part B of Proposed Rule which consisted of “Alcohol Facts and Ingredient Labeling”. Angela was also responsible for contacting the stakeholders for manufacturers, importers, exporters, and other retailers.
Ivonne Ubieta	Researched and prepared report for Part C of Proposed Rule which consisted of “Allergen Labeling”. Ivonne contacted stakeholders also, as well as, the agencies involved with Allergen Research.
Argerie Matute	Researched and prepared report for Part D and E of Proposed Rule which consisted of “Request for Voluntary Serving Facts Labeling and Composite Label Approach”. Argerie also contributed to contacting stakeholders for their opinions on this subject. Argerie also was responsible for ensuring that the paper was completed accurately and timely.

By signing below, we each acknowledge equal participation on this project and are pleased with the collaboration of each team member.

Maylen Santana

Sheila Herrera

Angela Navas

Ivonne Ubieta

Argerie Matute

June 10, 2005

RE: Notice No. 41 (RIN 1513-AB07)-Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Request for Public Comments

Dear Mrs. Gesser:

Thank you for the opportunity to comment on the section No. 41-Labeling and Advertising of Wine, Distilled Spirits and Malt Beverage proposed rule. After review of the proposal by a group of student at Florida International University, which members are: Argerie Matute, Angela Navas, Sheila Herrera, Maylen Santana, and Ivonne Ubieta from the Weekend Bachelors of Business Administration, Cohort 18, are submitting the following comments for consideration.

II. Introduction

We'd like to begin by introducing ourselves and telling you a little bit about who we are and why we have decided to present our views on the Proposed Rule under Federal Register: April 29, 2005 (Volume 70, number 82) for the Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages; Request for Public Comment for the Agency of Alcohol and Tobacco Tax and Trade Bureau, Treasury. We are a group of students who have decided to give up our Saturdays for approximately two years in pursuit of our Bachelor's Degree in Business Administration at Florida International University, in Miami, Florida. Our common goal is to enhance our personal lives, as well as, improve our communities by becoming responsible members of our society. As students in the Business and Society class, our project assignment is the requirement to participate and respond to a Proposed Rule. It has been a great learning experience to know that these rules are posted on the web in order for the public to view and comment on. No one in our group had any prior knowledge of the existence of this website or any idea that we were able to express our views and opinions prior to taking this class. It is very interesting to learn that we do have an impact and a say when it comes to making rules on issues that impact our daily lives.

We chose this particular Proposed Rule because we felt that this was a very interesting subject. The topic of alcoholic beverages impacts all of us. Whether you drink or not, chances are that you know of someone whose life has been greatly impacted by alcohol whether it's a friend, neighbor, relative, or a total stranger. Alcoholic beverages are a part of our society. American's look forward to Friday

afternoons when they can meet friends and co-worker's for a casual drink at "Happy Hour" in order to ease off the pressures of the work week. The beauty of living in Miami is the fact that we are surrounded by so many different cultures in which we can identify and learn from; including the fact that drinking alcoholic beverages is really something that is done world-wide by thousands and millions of people from all walks of life. The research and findings of this project has brought light to how and why rule making is so important. It has also been a lot of fun gathering different opinions and points of view and being able to talk about it with others. In reading the contents of the Proposed Rule and its history, we found it quite intriguing that this subject has been presented several times in the past and it has always been rejected by the majority of the people. Upon reading the material, our group initially decided that the labeling on alcoholic beverages would be beneficial and we voted four to one that labeling should be mandatory and it should provide information including ingredient, allergen, alcohol, calorie, carbohydrate content and other information pertaining to health concerns. However, as we conducted surveys, talked to the stakeholders, and did some research as to what the benefits and impact would be for labeling alcoholic beverages, we changed our minds and went against labeling on a vote, which again, was four to one, but this time there were four against labeling. However, for our public comments and group presentation, we have unanimously agreed that we are against more labeling on alcoholic beverages, despite some of the obvious benefits that labeling can provide to society. There are many parts to this Proposed Rule and as you read our report, you will find that although we went against labeling, we made suggestions for label modifications to be made when it comes to the section referencing "Allergen Contents". We concluded that the reason for our decision is repetitious of the reasons for which labeling of alcoholic beverages was withdrawn in the past. We will include the results of a small survey which we prepared and conducted, which also concluded that regardless of a label or not, those who want to have a drink will do so regardless of what a label may say.

Who are the stakeholders? The stakeholders are the general consumers ages 21 and older, the alcohol manufacturers, importers, exporters, wholesalers, and retailers. The following paragraphs will have detailed explanations of each section described in the Proposed Rule and our opinions and comments on each one:

- A. Calorie and Carbohydrate Claims
- B. Petition for "Alcohol Facts" Label and Ingredient Labeling
- C. Allergen Labeling
- D. Requests for Voluntary "Serving Facts" Labeling
- E. Composite Label Approach

III. Revision A. Calories and Carbohydrate Claims

Question:

Should TTB promulgate regulations that define "low carbohydrate" for alcohol beverage products as containing no more than 7 grams of carbohydrates per standard serving size, as specified in Ruling 2004-? Why or why not?

Answer:

In Florida alone, there is a 15 – 19% obesity prevalence rates. In a society in which there is a high percent of obesity, this would equate a higher percent of people that would not care whether or not the alcohol they consume is low in carbohydrate. In addition, base on a survey conducted of a pool of 50 people, the majority indicated that it would not matter whether a label would contain “low carbohydrate” notice, since most individuals only consume alcohol in social gatherings. This is helpful information for health conscious individuals. When consumers are provided with more information, they are better educated in making decisions for future product purchases. However, there are only a small percentage of individuals who feel the need to know whether a product is “low carbohydrate” or not.

Question:

Should TTB continue to prohibit use of the terms “effective carbohydrates” and “net carbohydrates” on labels and in advertisements? Why or why not?

Answer:

Yes, TTB should continue to prohibit use of the terms “effective carbohydrates” and “net carbohydrates”. One must first ask what are effective carbohydrates and net carbohydrates. Most people have no idea what effective and net carbohydrate mean, and it could be represented as a misleading way to advertise alcohol. As previously mentioned, people are always looking for an easy way to continue the fight against obesity, the thought of advertisement that states “net/effective carbohydrates”, might mean the difference between gain five pounds or not gain five pounds. It is wise to give the consumer the statement of average analysis.

Question:

Should TTB wait for the conclusion of FDA’s regulatory decision making process for the use of the term “low carbohydrate” for food and beverage products FDA regulates before issuing regulation on a low carbohydrate standard for alcohol beverage products?

Answer:

Yes, it is important to know the outcome of FDA’s decision making process for the use of the term “low carbohydrate” for food and beverage products. This will give TTB the opportunity to view if the term “low carbohydrate” will be needed in the labeling of alcohol beverage products. Once again, the key is to have alcohol labels with the statement of average analysis which contains all the pertinent information for consumers to know.

Question:

How should TTB define the terms “low calorie” and “reduce calorie” for alcohol beverage products? Should we propose standards for these claims consistent with FDA’s standards? Should we develop our own alternate set of standards and, if so, what should they be?

Answer:

TTB ruling 2004-1 did not provide any specific standards for the terms “low calorie” and “reduced calorie”. Due to the lack of guidance regarding the usage of calorie claims, it makes sense to be consistent with the FDA’s standard.

Question:

Should TTB establish regulations for the use of the term “light” and “lite” on alcohol beverage labels? If so, should we propose standards for these claims consistent with FDA’s standards? How would these standards apply to products for which the term “light” is part of the standard of identity (such as “light whisky” or “light wine”)?

Answer:

Notice No. 659, had the right concept when it comes to what defines the terms “light” and “lite”. ATF proposed that in order for the label to state “light and lite”, the product had to contain at least 20 percent fewer calories than the producer’s regular product or if the producer did not have as regular product, then a comparison with the competitors. Wines, Distilled Spirits and Malt beverages have a completely different nutritional value than food and beverage products. However, it would be a wise idea to try to be in the same FDA’s standards. The ATF proposal on the standards for the use of “low and reduce calorie” would be accepted for TTBs overall purpose.

IV. Revision B. Petition for “Alcohol Facts” Label and Ingredient Labeling

Question:

Should alcohol beverage containers bear an Alcohol Facts label similar to the one presented in the CSPI petition? Why or Why not?

Answer:

After doing some research, included a survey done to people of all ages and backgrounds, we concluded that the general public doesn’t think that adding a new label for alcoholic beverages with Alcohol Facts similar to the ones presented in the CSPI petition is something that needs to be done. Changing the label is not the solution for drinking habits or dietary problems in consumers and the majority of the people won’t pay more for a bottle of alcohol that has a label with those characteristics.

Question:

Should such a label include an ingredient list as suggested in the CSPI petition?

Answer:

We propose to include in the label the allergenic ingredients.

Question:

Should the label be voluntary or mandatory?

Answer:

In case that the proposal for labeling is accepted it should be voluntary, the producer should be the one deciding if they want to give additional information on ingredients and alcohol facts.

Question:

If mandatory, should there be any exemptions from the alcohol facts and ingredient labels, such as for small businesses or for small containers?

Answer:

If the proposal for labeling is accepted as mandatory there should be no exemptions from alcohol facts or ingredient labels to small business or small containers. The purpose of labels is to inform the consumer about the facts previously discussed; in this case, every bottle of alcohol should have the same information.

Question:

Should current alcohol content statement labeling requirements be expanded to cover wines with alcohol content of 14 percent alcohol by volume or less and malt beverages?

Answer:

Current alcohol content statement labeling requirements should be expanded to cover all alcohol beverages even if they have low alcohol content (14 percent and less) so they can be standardized. Information found in wines and distilled alcohol labels is the basic and minimum information that should be required. All beverages with alcohol, even if it's very low content like malts (with alcohol), wine coolers and alcopops should all carry the current alcohol content statements. In this point B of the proposal we strongly agree with this requirement because we need to protect the future of our country that is in the hands of our kids who would be directly affected with misinformation or lack of information on these products.

Question:

What would be the cost associated with mandatory alcohol facts and ingredient labeling to the industry and, ultimately, the consumer?

Answer:

Producers and importers don't agree either with the proposal basically because this will increase the price of the product and their costs. The producer thinks that it is not worth to add additional work and costs to a matter that won't give benefits to the final consumers. Here you find some quotes information that can give you an idea on possible prices that they will need to incur for the change of labels:

Stoney Creeks www.stoneycreekwinepress.com

The cost of personalized wine labels can be calculated quite simply.

*Custom Wine Labels: Setup charge + **\$4.95** per sheet*

Setup Charges are as follows:

*Custom Text Labels: **\$8.00***

*Custom Image Labels: **\$50.00***

*Your Custom Design Labels: **\$50.00***

*Full Custom Design Labels: **\$150.00***

For example, the cost of 60 custom text labels would be calculated as follows;

<i>Quantity</i>	<i>Cost in USD</i>
<i>Setup:</i>	\$8.00
<i>Printing Charge: \$4.95 x 10 sheets =</i>	\$49.50
<i>Total Cost in USD</i>	\$57.50

Taxes are extra where applicable. Shipping & Handling are extra.

Question:

How might consumers benefit from such a label?

Answer:

We think that the labels as they are right now have the information people expect to see. With alcohol by volume, government warning, year and place of production, type of wine (in the case of wines) or liquor and, the sulfites (if the beverage contains them) people feels satisfied. Additionally, with the fact that most of the labels include a website and/or 1800 number to get additional information in the case that it is required by consumers; the label seems complete and the benefit of changing a label creates an increase in cost for producers, distributors, retailers and consumers.

Question:

As a consumer, how much extra will you be willing to pay for alcohol facts and ingredient labeling information?

Answer:

These prices we saw on the answer for question 6 will add 1 dollar (without taxes and shipping) to the costs of the beverage which at the end will represent between 15% and 20% increase on the sale price to the final consumer who is not willing to pay more than 2%. As you can see the producer will need to discard the old labels, these already represents a loss, and do new ones it's a high cost for few benefits.

Question:

Are there alternatives to mandatory alcohol facts and ingredient labeling for alcohol beverages? For example, if a label lists a Web site or telephone number where a consumer could obtain such information about the product, would this be sufficient?

Answer:

As stated previously the majority of labels already carry a web site and/or a 1800 number where the consumer will be able to call to get additional information.

V. Revision C. Allergen Labeling

Question:

Should TTB required allergens labeling on alcohol beverage containers to be part of or adjacent to a larger list of all ingredients found in the product, similar to the requirements of the Food Allergen Labeling and Consumer Protection Act of 2004? Why or why not?

Answer:

Yes, we think that the allergen labeling needs to be enhanced to the current label as people with allergic problems have the right to know if there is something that may have an impact on their health.

Question:

If the product name appearing on the label of an alcohol beverage container indicates that an allergen is present in the product, is it helpful for the consumer to have the allergen labeled again in a standardized allergen statement elsewhere on the container?

Answer:

We don't think it is necessary to have the allergen twice in a bottle, because this will increase cost to the producers, and its repetitive information for consumers.

Question:

When an allergen is used as a fining, processing, or filtering agent to produce an alcohol beverage, should the TTB require the product be labeled "Process with [a specific allergen]" or "May contain [a specific allergen]"? Why or Why not?

Answer:

We agree that the a note needs to be added to the current label listing allergens such as milk, albumen (egg), isinglass, and soy flour that are being used as part of the fining, processing, and filtering process (as per the reasons mentioned in question one).

Question:

Should allergenic fining, processing, and filtering agents be labeled in the exact same fashion as all other allergen ingredient? Why and why not?

Answer:

We think that this should be uniform. We suggest that all allergic information to be in capital letters in order to highlight the content.

Question:

Would it be helpful to consumers to for TTB to require an allergenic fining, processing, or filtering agent to be labeled regardless of whether a detection test shows that the allergen is or is not present in the final product? Why and why not?

Answer:

Yes, we think that it would be helpful regardless of whether a detection test shows that the allergen is or is not present in the final product. We think this will uniform label requirements. This will also eliminate any laboratory testing costs to detect if an allergen is or is not present.

Question:

What is the lowest amount of an offending food allergen (or minimum threshold level) in an alcohol beverage product necessary to provide a mild, yet perceptible adverse allergic reaction in consumer with the most sensitive food allergies?

Answer:

The lowest amount an offending food allergen depends on the physical condition of each person, they are people that with a minimum doze of 100 microgram can catch symptoms, and some people with mild allergies may need a doze of 50 grams in any food.

Question:

Is it possible to define a minimum threshold level for each major food allergen? If so, what is the minimum threshold level for each major food allergen?

Answer:

In order to answer this question we contact the Food Allergy and Anaphylaxis Network, and we found out that there are studies underway to try to determine these levels, but these levels have not yet been identified.

Question:

If FDA and/or the scientific community establish conclusively a minimum threshold level for a particular allergen, should TTB exempt from any allergen labeling requirements products containing the allergen proteins, but at a level below the established minimum threshold level? Why of Why not?

Answer:

We don't think that TTB should exempt any product from allergen labeling requirement. As mentioned in question four; we think the label should be standard, and producers should only provide the information they currently have (the facts) to help consumers, because if a producer would like to be exempt, they will need to conduct tests and research that may be costly.

Question:

*What will be the **cost associated** with mandatory allergen labeling to the industry and, ultimately the consumer?*

Answer:

We think that the cost will be lesser for the modification we are requesting. Our only suggestion is to add the information producers can supply. We only requesting a small modification to the current label noting all allergens and allergic agents used in fining, processing, and filtering. Our goal is to inform consumers of the facts when purchasing a product, and minimizing the costs of producer.

Question:

How might consumers benefit from allergen labeling?

ANSWER:

If the small change we suggested is accepted, consumers with allergic reactions will benefit because it will prevent them from any physical harm the product may cause them.

VI. Revision D. Request for Voluntary “Serving Facts” Labeling

Question:

Should alcohol beverage containers bear a Serving Facts label similar to the one presented in this section? Why or why not?

Answer:

No, because as consumer we feel that this type of labeling is inconsistent, confusing, and don't help consumers compare beverage's alcohol or calories content. We agree with the requirement for listing allergens for those Americans who can suffer serious, sometimes fatal, reactions to the myriad of additives or allergies that might be cause by beer, wine, and liquor ingredients.

Question:

Should the label be voluntary or mandatory?

Answer:

We believe it should be voluntary. For those private company that have the money and wants to do something to stand out its okay for them to have a serving facts labeling display in their alcohol beverage as longs as they are responsible for all the cost.

Question:

What would be the costs associated with mandatory serving facts labeling to the industry and, ultimately, the consumer?

Answer:

We believe that the costs of mandatory serving facts labeling to the industry, and ultimately, the consumer would be far outweigh any extremely indefinable benefits. There is already one generally mandatory label on alcohol beverages in this country; there I no need to turn every bottle into a sign board. Past research done by the FDA regarding nutrition labels and trans-fat labels, that agency found that the cost of new labels per “stock keeping unit” (a specific product sold in a particular size) was significant. FDA estimated the cost to range from \$1,100 to \$2,600 per sku. Applying that to a winery selling 5 wines would yield a total cost of \$5,500 to \$13,000. This is only in wine.

Question:

How might consumers benefit from such a label?

Answer:

There is not benefit from such a label to the consumer; in contrast, there is a disadvantage for the consumer. Providing information on alcohol, calories, and ingredient will not help consumer to make a better choice in consumptions. This is costly to the industry and costly to the consumer.

Question:

Are there alternatives to mandatory serving facts labeling for alcohol beverage? For example, if a label lists a web site or telephone number where a consumer could obtain such information about the product, would this be sufficient?

Answer:

Providing “alcohol” and “serving” facts on Internet websites or at a telephone number indicated on the product label would be an appropriate additional, especially to the consumer interested in knowing the calories, serving sizes, etc. Technology is growing intensely, and consumers actually take the time to go on-line or make a call when directed by label to find additional information. We believe this tool would be useful for a lot of people especially people with allergies might be highly motivated to seek out those sources of information, not to mention, consumers, for whom alcohol facts – alcohol content, serving size, number of servings per container, calories, etc- might also have considerable value, to this source of information.

Question #2, 3, 5, 6, 8, 9, 11, and 12, *we feel that are Not necessary to respondent, because we already say that we are against the request for Serving Fact Labeling. Thus, repetitions of our previous answer will occur.*

VII. Revision E. Composite Label Approach

The proposal for “Alcohol Facts” label and the “Serving facts” label are not necessary because it represents a small positive step in providing useful consumer information about the consumption of alcohol beverages. The “Serving facts” label contains: Fact

content, carbohydrate content, protein content, a definition of a standard drink, and icons depicting three different alcohol serving. And the "Alcohol Facts" contains Alcohol content expressed as a percentage of alcohol by volume, an icon of an alcohol beverage. We have agree that this information is not useful first of all, because alcohol is not a food, and the request allowing the labeling of fat and protein content provide little information of value. The mere labeling of "Protein" might suggest to consumers who do not read labels carefully that some products contains proteins, thus increase consumption particularly for heavy and addicted drinkers. Second of all, most people do not consume alcoholic beverage for nutritional reasons. Third of all, the information on serving and alcoholic fact would give consumer relevant information about the concentration of alcohol in the products they are consuming. We all agree that these labels are not good for the consumer instead all it would do is increase price for some information that is not useful. We recommend that mandatory information such as sulfites, Yellow #5, and common allergens be listed directly to the current label.

XI. Conclusion

In conclusion to our report on the labeling of Alcoholic Beverages, we unanimously agree that through the research and responses received, the additional labeling and changes necessary to comply with the various proposals are not in the best interests for stakeholders. We have replied to each section to the best of our abilities, keeping in mind the benefits and disadvantages to each stakeholder whether it is a consumer, a producer, distributor, retailer or other entity affected by this proposal. Attached, you will also find a reference and a contact list of those individuals or entities that made an impact to the outcome of this report. We hope that these results will positively contribute to the improvement of our society as a whole in regards to Alcoholic substances.

The Survey, Survey Results, Graphs, References and Contacts may be

Viewed in the TTB Reading Room, By Appointment.