



## FDA Publishes Food Security Guidance Documents



By Karen Freelove (202) 927-8100

On January 8, 2002, FDA posted to their web page under the Federal Register documents section, an advanced notification of availability – Docket No. 01D-0583, CFSAN 200175, two guidance documents related to food security, entitled, “Food Producers, Processors, Transporters, and Retailers: Food Security Preventive Measure Guidance” and “Importers and Filers: Food Security Preventive Measures Guidance”. These documents identify the kinds of preventative measures that can be taken to minimize the risk of food being subjected to tampering or criminal or terrorist actions. The direct link for these documents can be found on <http://www.cfsan.fda.gov> under Recent News - What’s New – FDA Food & Cosmetic Announcements. ■

## Flavored Malt Beverage Study

By Charlie Tull (210) 805-2777

The Bureau of Alcohol, Tobacco and Firearms is conducting a study of the flavored malt beverage product category. Our study of the evolution and classification of the flavored alcohol beverage category is something we are considering seriously. The statutory framework governing the labeling and taxation of alcohol beverages has changed little since the repeal of Prohibition and presents challenges in application to products that have emerged over the last decade or so. Products currently marketed as “flavored malt beverages” that lack the traditional characteristics (taste and appearance) of malt beverages, and which derive a significant portion of their volume and alcohol from other than the malt beverage base, do not fit neatly within the definitions crafted by Congress over 60 years ago.

In early 1996, we published ATF Ruling 96-1, which discussed concerns related to flavored malt beverages and set some interim rules pending rulemaking. For a variety of reasons the rulemaking has been postponed. While this ruling addresses primarily the labeling of certain malt beverage products, any final determination on the issues may also reflect our assessment of the tax consequences of the classification of these products.

ATF is aware that our decisions in this could have significant impact on individual brands and producers. For that reason, ATF is studying carefully the issues and options before taking any position. ATF’s intention is to make a decision on how to proceed within the next several months. If ATF pursues rulemaking, it will be a public and participatory process that will afford all interested parties the opportunity to comment. ■

## ATF’s Policy for Beverage Alcohol Products Made with Hemp

By Roberta Sanders (202) 927-8450

On April 6, 2000, ATF issued a policy on the use of hemp or hemp components in alcohol beverages and on the use of the term “hemp” or depictions of the hemp plant on labels for alcohol beverages. The policy does not ban the use of hemp in alcohol beverages, but was created to assure that beverage alcohol products do not contain a controlled substance (tetrahydrocannabinol (THC)). ATF also determined that the appearance of the word “hemp” or depictions of hemp plants on labels was likely to create a misleading impression as to the true identity or quality of the product. As of this writing, there are no approved certificates of label approval for products containing hemp.

On October 9, 2001, the Drug Enforcement Administration (DEA) published in the Federal Register an interpretive rule stating that under the Controlled Substance Act and DEA regulations, any amount of THC, including microscopic traces, is a schedule I controlled substance. The intent of this rule is to ban from importation or sale foods made from or containing hemp because they contain traces of THC, the primary active constituent of marijuana. Products on the market that might be affected by this action include some alcohol beverages, cheeses, coffees, corn chips, energy drinks, flours, ice creams, snack bars, salad oils, sodas and veggie burgers. The comment period for the proposed rule (DEA-205) ended December 10, 2001.

ATF will not change our April 6, 2000, hemp policy pending finalization of DEA's rulemaking process on this issue. When DEA's final rule is published, ATF will apply it to alcohol beverages containing hemp. If you have any questions about, or would like a copy of the April 6, 2000 hemp policy, please contact the Alcohol Labeling & Formulation Division Customer Service Team toll free at 1-866-927-ALFD (2533) or by e-mail at [alfd@atfhq.atf.treas.gov](mailto:alfd@atfhq.atf.treas.gov). ■

## Excise Tax Return Packets Mailed

By Yolanda Whitehead (513) 684-3334

The National Revenue Center (NRC) mailed pre-printed excise tax return packets during the last week of December 2001, to all wineries, breweries, distilled spirits plants and tobacco manufacturers who filed an excise tax return during calendar year 2001. Excise taxpayers that do not receive a pre-printed excise tax return packet should contact their ATF Specialist in the NRC at 1-800-398-2282 or (513) 684-3334. In addition to requesting the excise tax return packet, taxpayers should verify the mailing address on file at the NRC. Taxpayers may also visit ATF's website at <http://www.atf.treas.gov/alcohol/info/index.htm> and <http://www.atf.treas.gov/tobacco/index.htm> for additional information. The local ATF office in Puerto Rico will mail similar packets to permittees and MNBP claimants located in Puerto Rico.

### Reminder to taxpayers:

Calculate the total excise tax liability (Line 17 on ATF Form 5000.24) made during calendar year 2001 to determine if tax payments for calendar year 2002 must be made using Electronic Funds Transfer (EFT). A taxpayer must use EFT to pay taxes during calendar year 2002 if:

- The total excise taxes liability for a single commodity (Beer, Wine, Distilled Spirits or Tobacco Products) during calendar year 2001 exceeded \$5 million, or
- The taxpayer is part of a control group, whose total excise taxes liability for a single commodity during calendar year 2001 exceeded \$5 million.

Taxpayers should contact their ATF Specialist at the NRC for further assistance. ■

## Tobacco Importers

By Barbara Klumpp (513) 684-3334

Since the implementation of the tobacco importer program in January 2000, the Wholesaler/Importer Units received over 900 applications. These units have issued 364 original permits, which expire three years from the date of issuance. Currently, there are over 100 applications, which have been sent for field inspection pending qualification. Over 300 applicants have decided to withdraw their application or discontinue operations. Effective January 1, 2002, approximately 100 temporary permits were issued which expire December 31, 2002. If any tobacco importer holds a temporary permit, which expired effective December 31, 2001, and did not receive a new permit, they should contact the National Revenue Center, Wholesaler/Importer Unit, at 1-800-398-2282 or 513-684-3337.

As a reminder, if any tobacco importer has any changes in name, location, business structure or phone number, the Wholesaler/Importer Unit should be contacted immediately at either number listed above or send written notification to Bureau of Alcohol, Tobacco and Firearms, 8002 Federal Office Building, 550 Main Street, Attention: Wholesaler/Importer Unit Cincinnati, OH 45202-3263. ■