



Federal Regulation of Low and No Alcohol Beverages



TTB Disclaimer

Notice:

This information is being presented to help the public to understand and comply with the laws and regulations that the Alcohol and Tobacco Tax and Trade Bureau administers. It is not intended to establish any new, or change any existing, definitions, interpretations, standards, or procedures regarding those laws and regulations. In addition, this presentation may be made obsolete by changes in laws and regulations. Please consult the regulations for the most current regulatory requirements.

Sample documents (such as records, returns, and labels) are for illustrative purposes only and contain fictitious data.

We use ABV as shorthand in this presentation for Alcohol by Volume, however ABV is **NOT** an acceptable format for the alcohol content statement on product labels.



Agenda

- Product terms
- Legal overview
- How are low alcohol beverages regulated?
- How are non-alcoholic beverages regulated?
- Resources



Product Terms Used in Presentation

In this presentation, we use these terms:

Low alcohol:

- to generally describe alcohol beverages with **at least 0.5% ABV** that contain lower alcohol than their traditional alcohol beverage counterparts.

Non-alcoholic:

- to describe alcohol beverages **with less than 0.5% ABV.**

Note: TTB regulations have specific definitions for “low alcohol” and “non-alcoholic” only for malt beverages (i.e., beer made with malted barley and hops), covered on slides 23 and 31 respectively.



Product Terms in TTB Regulations

Depending on how the products are made and the level of alcohol content, low/no alcohol products are regulated as beer, cereal beverages, malt beverages, wine, or distilled spirits.

LOW ALCOHOL BEVERAGES ($\geq 0.5\%$ ALC./VOL.)

- Wine
- Distilled Spirit
- Beer
- Malt Beverage

NON-ALCOHOLIC BEVERAGES (< 0.5% ALC./VOL.)

- Wine
- Cereal Beverage
- Malt Beverage



Descriptive Terms in TTB Regulations

These terms used to describe low/no alcohol products are defined in TTB regulations or guidance:





Product Terms NOT in TTB Regulations

A variety of terms used to describe low/no alcohol products in the marketplace are **not** defined in TTB regulations, including:

Session

Spritz

Seltzer

Mocktail

Piquette



Legal Overview



Internal Revenue Code

The Internal Revenue Code (IRC) regulations cover issues such as:

- Qualification/registration of bonded premises
- Production requirements
- Formulas (for some products)
- Recordkeeping/reports
- Taxes
- Basic labeling/marketing

The IRC regulations apply to all alcohol beverage products with $\geq 0.5\%$ alc./vol., regardless of whether the product is sold interstate.



Federal Alcohol Administration Act

- The Federal Alcohol Administration (FAA) Act regulations (27 CFR) cover issues such as:
 - Labeling
 - Certificates of Label Approval (COLA)
 - Qualification (Basic Permit)
 - Advertising
 - Trade practices
 - Labeling proceedings

The FAA regulations apply to wines \geq 7% alc./vol.; distilled spirits; and malt beverages-- and only if sold interstate!



Alcoholic Beverage Labeling Act

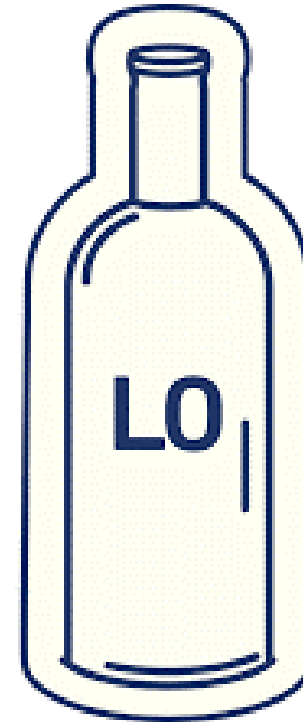
The Alcoholic Beverage Labeling Act and TTB regulations in 27 CFR part 16 require that a **Health Warning Statement** appear on all alcohol beverages with 0.5% alcohol by volume or more

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

Applies to all alcohol beverage products if ALC. BY VOL. is 0.5% or more

27 CFR part 16

Low Alcohol ($\geq 0.5\%$ ABV) Regulations





How are $\geq 0.5\%$ ABV Products Regulated?

Beverages in liquid form which contain not less than one-half of one percent (.5%) of alcohol by volume and are intended for human consumption are **alcohol beverages**.

They are:

- **Taxable** under the IRC.
- Required to be **produced on bonded premises** (federal permit, notice, and/or registration required).
- **Subject to Health Warning Statement requirements.**



How are $\geq 0.5\%$ ABV Products Regulated?

- Generally, they are treated and regulated by TTB like higher-alcohol products.
- IRC provisions apply to all alcohol beverages, regardless of whether they are sold in interstate or intrastate commerce.
- FAA Act provisions apply to many, but not all, alcohol beverages in interstate commerce. It applies to:
 - Wine with 7% to 24% alcohol by volume
 - Distilled spirits
 - Malt Beverages*, when made with both malted barley and hops

**The FAA Act uses the term “malt beverage,” not “beer.”*



Distilled Spirits: $\geq 0.5\%$ ABV

Subject to IRC?

Yes. Per 27 CFR 19.1, beverages that include ethyl alcohol, ethanol, or wine spirits are “distilled spirits” under the IRC and IRC regulations apply.

Subject to FAA Act?

Yes. Per 27 CFR 5.1, the term “distilled spirits” applies to ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures, for nonindustrial use when at least 0.5% ABV. FAA Act regulations apply.

Label Jurisdiction?

TTB labeling regulations apply to all distilled spirits with $\geq 0.5\%$ ABV:

IRC ([27 CFR part 19](#))

FAA Act* ([27 CFR part 5](#))

- *If for sale in interstate commerce. If only in intrastate commerce, the FAA Act does not apply, and products can be covered by an exemption from label approval instead of a COLA.*



Distilled Spirits Term: Diluted

Distilled spirits bottled at below the specified alcohol content for that particular class must be designated on the label as “diluted” in direct conjunction with the statement of class/type.

Example: Vodka must be bottled at “not less than 80° proof.” (27 CFR 5.22(a)) Vodka bottled at 40° proof must bear the statement “diluted vodka” on the label.

ATF Ruling 75-32



Wine: $\geq 0.5\%$ ABV

Subject to IRC?

Yes. Per 27 CFR 24.10, there is no minimum alcohol content for “wine.” IRC regulations apply.

Subject to FAA Act?

Maybe. Per 27 CFR 4.10, wine is defined as, among other things, containing not less than 7 and not more than 24% ABV.

If less than 7% ABV FAA Act regulations do not apply.

Label Jurisdiction?

TTB IRC labeling regulations ([27 CFR part 24](#)) apply to all wine; FAA Act* regulations ([27 CFR part 4](#)) apply to wine with alcohol content of 7% ABV or greater.

FDA labeling regulations apply to wine with alcohol content $<7\%$ ABV.

* If for sale in interstate commerce. If only in intrastate commerce, the FAA Act does not apply, and products can be covered by an exemption from label approval instead of a COLA.



Table Wine Term: Light

For wines 7-14% ABV, “**light wine**” (or “table wine”) may be used in lieu of a numerical alcohol content statement when used on the brand label as the mandatory class/type designation.

If table wine or light wine is made from any commodity other than grapes, “table wine” or “light wine” must be qualified with the specific or general class of the commodity from which the wine was made.

E.g., “Light rice wine,” “Light fruit wine”

27 CFR 4.21(a)(5), (e)(6), (f)(2)



Grape Dessert Wine Term: Light

Dessert wines having the taste, aroma, and characteristics generally attributed to sherry, angelica, madeira, muscatel, or port and an alcoholic content, derived in part from added grape brandy or alcohol, in excess of 14% ABV and:

- For sherry, less than 17% ABV may be designated as “light sherry”
- For others, less than 18% ABV may be designated “light angelica,” “light madeira,” “light muscatel” or “light port” respectively

27 CFR 4.21(a)(6)



Beer: $\geq 0.5\%$ ABV without Malted Barley & Hops

Subject to IRC?

Yes. Per 27 CFR 25.11, “beer” contains at least 0.5% ABV and IRC regulations apply.

Subject to FAA Act?

No. The FAA Act uses the term “malt beverage,” not “beer.” Per 27 CFR 7.1, a fermented beverage must contain both malted barley and hops to be a “malt beverage” under the FAA Act. Therefore, beers that are not malt beverages are not subject to the FAA Act.

Label Jurisdiction?

TTB IRC labeling regulations ([27 CFR part 25](#)) apply to all beers.

FDA labeling regulations apply to beers that are not malt beverages under the FAA Act.



Malt Beverages: $\geq 0.5\%$ ABV with Malted Barley & Hops

Subject to IRC?

Yes. A “malt beverage” under that FAA Act that contains at least 0.5% alcohol by volume is also a “beer” under the IRC and IRC regulations apply.

Subject to FAA Act?

Yes. The FAA Act uses the term “malt beverage,” not “beer.” If a beer under the IRC contains both malted barley and hops it is also a malt beverage and FAA Act regulations apply.

Label Jurisdiction?

TTB IRC labeling regulations ([27 CFR part 25](#)) apply to all beers and FAA Act* regulations ([27 CFR part 7](#)) apply to all malt beverages.

** If in interstate commerce and being offered for sale in a state with similar state law*



Malt Beverage Terms: Low/Reduced Alcohol

27 CFR 7.65: The terms “low alcohol” or “reduced alcohol” may be used only on labels of malt beverages containing less than 2.5 percent alcohol by volume. The actual alcohol content may not equal or exceed 2.5 percent alcohol by volume, regardless of any tolerance permitted by [paragraph \(c\)](#).

Non-Alcoholic ($<0.5\%$ ABV) Regulations





How are < 0.5% ABV Products Regulated?

Finished beverages containing less than 0.5% ABV are **not considered alcohol beverages** under federal regulations. These products can be labeled as alcohol free (0.0% ABV) or non-alcoholic (less than 0.5% ABV).

They are:

- **Not taxable** under the IRC.
- **Not required to be produced on bonded premises** (no permit/notice required) if product never reaches 0.5% ABV.
- **Not subject to health warning statement requirements.**

Generally, non-alcohol products are not subject to TTB regulations, with some exceptions.



Distilled Spirits: < 0.5% ABV

Subject to IRC?

Not if alcohol-free. Per 27 CFR 19.1, substances must include ethyl alcohol, ethanol, or wines spirits to be a “distilled spirits” under the IRC. Therefore, IRC regulations do not apply to alcohol-free spirits.

Subject to FAA Act?

No. Per 27 CFR 5.1, the term “distilled spirits” does not include products containing less than one degree of proof (0.5% ABV). Therefore, FAA Act regulations do not apply.

Label Jurisdiction?

FDA labeling regulations apply to distilled spirits with alcohol content less than 0.5% ABV.



Wine < 0.5% ABV

Subject to IRC?

Partially. Per 27 CFR 24.10, no minimum alcohol content for “wine.” IRC regulations, including formula requirements, generally apply.

However, wine with an alcohol content of <0.5% ABV is not subject to federal alcohol excise taxes.

Subject to FAA Act?

No. Per 27 CFR 4.10, wine is defined as, among other things, containing 7 to 24% ABV. Therefore, FAA Act regulations do not apply.

Label Jurisdiction?

FDA labeling regulations apply to wine with alcohol content less than 7% ABV.

TTB IRC labeling requirements at 27 CFR 24.257 also apply.



Cereal Beverages: <0.5% ABV without Malted Barley & Hops

Subject to IRC?

Partially. Per 27 CFR 25.11, beverages that are produced either wholly or in part from malt (or a substitute for malt), and either fermented or unfermented which contain < 0.5% ABV are “**cereal beverages**” and are subject to IRC formula and labeling requirements.

However, they are not “beer” and are not subject to federal excise tax.

Subject to FAA Act?

No. The FAA Act uses the term “malt beverage,” not “beer.” Per 27 CFR 7.11, a fermented beverage must contain both malted barley **and** hops to be a “**malt beverage**” under the FAA Act. Therefore, FAA Act regulations do not apply to non-alcoholic “cereal beverages” under the IRC that are not also malt beverages.

Label Jurisdiction?

FDA labeling regulations apply to non-alcoholic “cereal beverages” that are not malt beverages under the FAA Act.

TTB IRC labeling regulations at 27 CFR 25.242 also apply, including required statement “**Nontaxable under section 5051 I.R.C.**”



Alcohol-Free Label Example

Pauling's Alcohol Free



NONTAXABLE
UNDER SECTION
5051 I.R.C.

An alcohol - free version of your
on - tap favorite!

0.0% alc./vol.

CRISP MALTY REFRESHING

12 fl. oz. | Brewed by Pauling Brewery Newark, NJ | Cereal Beverage





Malt Beverages: <0.5% ABV with Malted Barley & Hops

Subject to IRC?

Partially. Per 27 CFR 25.11, beverages that are produced either wholly or in part from malt (or a substitute for malt), and either fermented or unfermented which contain < 0.5% alcohol by volume are “cereal beverages” and are subject to IRC formula and labeling requirements.

However, they are not “beer” and are not subject to federal excise tax.

Subject to FAA Act?

Yes. Per 27 CFR 7.11, a fermented beverage containing both malted barley **and** hops is a “malt beverage” under the FAA Act, with no minimum alcohol content.

Label Jurisdiction?

TTB FAA Act* regulations (27 CFR part 7) generally apply to cereal/malt beverages sold in interstate commerce, regardless of alcohol content.

TTB IRC labeling regulations at 27 CFR 25.242 also apply, including required statement “**Nontaxable under section 5051 I.R.C.**”

** If in interstate commerce and being offered for sale in a state with similar state law*



Malt Beverage Terms: Non-Alcoholic and Alcohol Free

“Non-alcoholic”:

- May be used on the label if it contains less than 0.5% ABV.
- No alcohol tolerance allowed.

“Alcohol free”:

- May be used on the label only if it contains 0.0% ABV.
- No alcohol tolerance allowed.
- Sample must be sent to TTB to be approved.

TTB-G 2016-1A, 27 CFR 7.65(e),(f)



Non-Alcoholic Label Example





Resources



TTB.gov Resources

- [TTB Ruling 2004-1: Caloric and Carbohydrate Representations in the Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages](#)
- Low/No Alcohol Beer and Hard Seltzers
 - [Video](#)
 - [Slides](#)
- [Wine Alcohol Reduction](#)
 - [ATF Ruling 85-6](#)

Definitions



Wine

FAA Act: **Wine** as defined in 26 U.S.C. 5381-5392, and other alcoholic beverages not so defined but made in the manner of wine; only if for non-industrial use and containing **not less than 7% ABV** and **not more than 24% ABV** (27 USC 211(a)(6))

IRC: Products produced on bonded wine premises from grapes, other fruit, or other suitable agricultural products containing **not more than 24% ABV** (27 CFR 24.10). A wine product containing less than 0.5% ABV is not taxable as wine when removed from bonded wine premises.



Distilled Spirits

FAA Act: Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use. (27 U.S.C. 211(a)(5))

IRC: Ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced). (26 U.S.C. 5002(a)(8))



Beer

Internal Revenue Code

Beer, ale, porter, stout, and other similar **fermented beverages** (including saké and similar products)* of any name or description

- containing **one-half of one percent or more of alcohol by volume**
- brewed or **produced from malt**, wholly or in part, or from any **substitute for malt**
 - Substitutes for malt are rice, grain of any kind, bran, glucose, sugar, and molasses

*Not covered in this presentation

27 CFR 25.11



Cereal Beverage

Internal Revenue Code

A beverage, **produced either wholly or in part from malt (or a substitute for malt)**, and

- **either fermented or unfermented,**
- **which contains, when ready for consumption, less than one-half of 1 percent (0.5%) of alcohol by volume**

Substitutes for malt are rice, grain of any kind, bran, glucose, sugar, and molasses

27 CFR 25.11



Malt Beverage

Federal Alcohol Administration Act

A beverage made by the **alcoholic fermentation**

- of an infusion or decoction, or combination of both,
- in potable brewing water,
- of **malted barley with hops**, or their parts, or their products,
- and with or without other malted cereals,
- and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom,
- and with or without the addition of carbon dioxide, and
- with or without other wholesome products suitable for human food consumption

27 CFR 7.1



Cereal Beverage

Federal Alcohol Administration Act

Cereal Beverage is a labeling class designation that may be used on malt beverages containing less than one-half of 1 percent (.5%) ABV

Under the FAA Act, any product labeled as a cereal beverage must meet the definition of a malt beverage shown on the previous slide

27 CFR 7.145(a)



Beer/Cereal/Malt Beverage Summary:

Here are the pertinent differences between the IRC definitions and FAA Act definitions:

	Internal Revenue Code (Part 25)		FAA Act (Part 7)	
	Beer	Cereal Beverage	Malt Beverage	Cereal Beverage
Must be fermented	X		X	X
Must be made with both malted barley and hops			X	X
Must contain 0.5% ABV or more	X			
Must contain less than 0.5% ABV		X*		X
May contain no alcohol (0.0%)		X*	X	X

*When ready for consumption