

TTB Spring 2019 Updates to Semi-Annual Regulatory Agenda

Article By:

Food, Beverage and Agribusiness at McDermott

The spring edition of the federal government's semi-annual [Unified Agenda of Federal Regulatory and Deregulatory Actions](#) (Regulatory Agenda) has been published. Like other federal agencies, the Alcohol and Tobacco Tax and Trade Bureau (TTB) uses the Regulatory Agenda to report on its current rulemaking projects.

The Regulatory Agenda provides glimpses into TTB's policy focus and aspirations. But, readers should recognize that TTB rulemaking moves very slowly, and the Agency often does not meet the aspirational dates published in the Regulatory Agenda.

The updated Regulatory Agenda lists the following projects of interest:

Wines, Distilled Spirits and Malt Beverages

1. In terms of importance, the list must begin with TTB Notice 176—the Notice of Proposed Rulemaking (NPRM) to “modernize” the labeling and advertising regulations applicable to all three commodities. Comments on Notice 176 are due on or before June 26, 2019.
2. Three separate entries continue to promise separate NPRMs to “modernize and streamline” the application requirements for permits and/or registrations required by breweries, wineries and distilleries. The Regulatory Agenda now identifies September 2019 as the expected publication date for these proposals.
3. Final regulations (a “Final Rule” in Administrative Procedures Act parlance) implementing the relaxed bonding requirements for smaller excise taxpayers, enacted by Congress in the PATH Act of 2015, are now expected in September 2019.
4. A Final Rule adjusting for inflation the civil monetary penalty for violations of the Alcoholic Beverage Labeling Act of 1988 (which mandates the government warning statement) from \$10,000 per violation to \$19,787 per violation is expected in September 2019.
5. TTB plans to publish a set of “technical corrections” to its regulations as a Final Rule in March 2020. The Regulatory Agenda provides no further information on the subjects that the technical corrections will correct.

Wines

6. The Regulatory Agenda reports on the imminent (May 2019) publication of an NPRM proposing to eliminate most standards of fill for wine containers.
7. TTB expects to publish its Final Rule on additional treating materials for wine in September 2019.
8. TTB expects to publish a Final Rule adding new grape varieties to the approved list of varieties for American wines. The Final Rule is expected in September 2019.
9. A Final Rule implementing the PATH Act's amended "hard cider" definition is now expected in September 2019.
10. TTB now projects March 2020 as the publication date of a promised "Supplemental" NPRM on a proposal to allow wine labeled with a single-state AVA to be finished in an adjacent state.
11. TTB's proposal to harmonize its Internal Revenue Code wine labeling regulations (codified in Part 24 of TTB's regulations) with its Federal Alcohol Administration Act labeling regulations (codified in Part 4 of the regulations) remains on the agenda. A Final Rule is expected in August 2019.
12. The Regulatory Agenda now projects September 2019 as the publication date for a planned NPRM on permitting wine labels to include information on fortification of the wine with wine spirits.
13. TTB proposes to amend its winemaking regulations to permit the use of molasses as an ingredient in wine. The NPRM publication date is now listed as March 2020.

Distilled Spirits

14. The Regulatory Agenda continues to report on an NPRM proposing to eliminate most standards of fill for distilled spirits. The latest agenda lists September 2019 as the expected publication date.
15. Another item on the Regulatory Agenda since 2017 proposed an ANPRM to explore a possible expanded definition of "oak container" for purposes of the distilled spirits standard of identity (class/type) and age statement rules. The latest Agenda indicates a possible publication date of the ANPRM in March 2020.

[agenda](#)