TTB Updates to the Semi-Annual Regulatory Agenda

Wednesday, December 27, 2017

Last week in its regular newsletter, Alcohol and Tobacco Tax and Trade Bureau (TTB) announced updates to the Fall edition of the semi-annual Unified Agenda of Federal Regulatory and Deregulatory Actions (Regulatory Agenda). Like other federal agencies, TTB uses the Regulatory Agenda to report on its current rulemaking projects.

In the updated agenda, a few new items have been added, and many expected publication dates of Notices of Proposed Rulemaking (NPRMs), Advanced Notices of Proposed Rulemaking (ANPRMs) and Final Rules have changed. As always, 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. The reform of TTB's labeling and advertising regulations for all three commodities, on the Regulatory Agenda for years, now indicates that TTB will publish an NPRM on the subject in September 2018.

2. Three new entries propose separate NPRMs to “modernize and streamline” the application requirements for permits and/or registrations required by breweries, wineries and distilleries. The Regulatory Agenda identifies September 2018 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 Protecting Americans from Tax Hikes Act of 2015 (PATH Act), are expected in April 2018.

**Wines**

4. The Regulatory Agenda reports that an NPRM to eliminate most standards of fill for wine containers is expected in December 2017 (a slippage in timing seems very likely with this proposal).

5. TTB re-opened the comment period on its proposal to allow additional treatments for producing wine, first published in November 2016. The reopened comment period ends on January 9, 2018.

6. An NPRM concerning the labeling of certain flavored wines is expected in April 2018.

7. TTB reopened the comment period on its proposal to add new grape varietals to the approved list of varietals for American wines. The reopened comment period closed on December 11, 2017, and the Regulatory Agenda does not indicate a future action after that date.

8. A Final Rule implementing the PATH Act’s amended “hard cider” definition is expected in April 2018. An “Interim Final Rule” already implements the requirements of the Act on a temporary basis.

9. TTB now expects to publish in April 2018 a “Supplemental” NPRM on its proposal to allow wine labeled with a single-state American Viticultural Area (AVA) to be finished in an adjacent state.
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 (confided in Part 4 of the regulations) remains on the agenda. The reopened comment period for this NPRM closes on January 9, 2018.

The Regulatory Agenda identifies December 2017 as the publication date for a planned NPRM on permitting wine labels to include information on fortification of the wine with wine spirits.

TTB proposes to amend its winemaking regulations to permit the use of molasses as an ingredient in wine. The NPRM publication date is listed as December 2017.

Distilled Spirits

A new item indicates that TTB expects to publish an NPRM to eliminate most standards of fill for distilled spirits. The latest agenda lists December 2017 as the expected publication date.

A new item in the latest Regulatory Agenda 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 Agenda indicates a possible publication date of the ANPRM in April 2018.

TTB expects to publish a Supplemental NPRM on combining Distilled Spirits Plant monthly reporting into a single form. This proposal, first addressed in a 2011 NPRM, is expected to result in a Supplemental NPRM published in September 2018.

Non-Beverage Alcohol

TTB expected to publish an NPRM related to its long-anticipated project to allow manufacturers of non-beverage products to self-certify that their products qualify for excise tax drawback. The expected publication date is set for September 2018.

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