

interested in using health claims or health-related statements. The rule does not require anyone to use such statements; it merely sets forth the standards that would apply in the event that an industry member wishes to use a specific health claim or a health-related statement on a label or in an advertisement.

TTB would not agree that the proposed regulations would inject uncertainty with respect to the use of advertisements that do not involve health claims or health-related statements, such as the example provided by DISCUS of an advertisement that shows people relaxing in an attractive setting. There is nothing in the proposed rule that would extend the definition of a health claim or curative or therapeutic claim to cover such advertisements. However, we agree that the lack of any definition of a "curative or therapeutic claim" or "health claim" in the proposed rule might give rise to some uncertainty as to what types of advertising claims would be covered by the regulation. Accordingly, the final rule includes definitions of the terms "health-related statement" (which includes statements of a curative or therapeutic nature), "specific health claims," and "health-related directional statements." We believe that these definitions should resolve any concerns by the commenters that the labeling or advertising regulations are intended to broaden ATF's traditional interpretation of a curative or therapeutic claim.

### **XIII. Does the ABLA Preclude the Use of Specific Health Claims or Other Health-Related Statements on the Labels of Alcohol Beverages?**

#### *A. Issue*

Five commenters, including Senator Thurmond (Comment 526), DISCUS (Comment 530), the Beer Institute (Comment 396), NABI (Comment 522), and Remy Amerique, Inc. (Comment 531), suggested that the use of any health claims or other health-related statements on alcohol beverage labels was foreclosed by the provisions of the ABLA. They argued that it was Congress' intent to foreclose the use of any other health-related statements on alcohol beverage labels.

#### *B. Decision*

TTB does not agree with those commenters who suggested that the ABLA specifically precludes the voluntary use by industry members of any health-related statements on alcohol beverage labels other than the required warning statement. The ABLA was

enacted in 1988. Pursuant to 27 U.S.C. 215, alcohol beverage containers distributed or sold in the United States must bear a Government warning statement, which warns that alcohol consumption during pregnancy may cause birth defects; that alcohol consumption impairs one's ability to drive a car or to operate machinery; and that consumption of alcohol beverages "may cause health problems."

Some commenters argued that the ABLA provided ATF with authority to deny any statement on an alcohol beverage label that discusses the relationship between alcohol consumption and health. The ABLA provides that "[n]o statement relating to alcoholic beverages and health, other than the statement required by section 204 [27 U.S.C. 215] of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container." This section of the law preempts State governments from each requiring their own version of a health warning statement on alcohol beverage containers. However, it in no way precludes producers from voluntarily placing either additional warning statements or health claims on alcohol beverage labels. See also 27 U.S.C. 213 (setting forth Congress' policy to ensure that the public is adequately reminded about any health hazards that may be associated with alcohol consumption or abuse, and not impeded by "diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health").

Some commenters argued that 27 U.S.C. 217 provides the exclusive method for allowing additional statements regarding alcohol consumption and health on the label. Section 217 provides that if the Secretary, after consulting with the Surgeon General, determines that there should be a change in the mandatory health warning statement, or if such statement should be deleted, he shall report such information to the Congress together with specific recommendations for necessary amendments to the ABLA. After soliciting public comments on this issue, ATF determined in 1993 that there was no need to seek changes to the required health warning statement. However, this provision applies only to the required health warning statement, not to voluntary statements that producers seek to place on alcohol

beverage labels. Thus, it is clear that the statute does not specifically preclude the voluntary use of additional health-related statements on alcohol beverage labels.

### **XIV. What Are the Effects on Health of Alcohol Consumption?**

#### *A. Issue*

Most of the commenters who addressed this issue agreed that there was a link between moderate alcohol consumption and a reduced risk of heart disease in certain individuals. However, some commenters concluded that the risks associated with alcohol consumption greatly outweighed any purported cardiovascular benefits, while other commenters emphasized the benefits associated with moderate consumption.

CEI and CA presented a review of the medical evidence summarized by Michael Gough (Ph.D.), which concluded that most adults would benefit from moderate alcohol consumption. Dr. Gough stated that "with the exception of those well-defined groups of people who should avoid alcohol, there is clearly convincing evidence for the health benefits of moderate alcohol consumption." Dr. Gough acknowledged that individuals in their 20s and 30s do not accrue net benefits from consuming alcohol since they are at low risk for heart disease; however, he suggests that "[b]ased on understanding of the biological basis for the protective effects of alcohol, it is likely that moderate alcohol consumption in the 20s and 30s is important to the beneficial effects seen in later years."

CEI attached numerous medical studies regarding the effects on health of alcohol consumption. In most important respects, the studies were consistent with ATF's summary of the medical evidence in Notice No. 884. Several of the studies reported an association between light to moderate alcohol consumption and a reduced risk of heart disease. However, many of these same studies supported the conclusion that the health benefits of alcohol consumption do not apply to certain groups.

For example, the authors of one study began by noting that "[m]en and women who drink alcoholic beverages regularly have, in comparison with abstainers, higher death rates from injuries, violence, suicide, poisoning, cirrhosis, certain cancers, and possibly hemorrhagic stroke, but lower death rates from coronary heart disease and thrombotic stroke. The net balance of