

ingredients used in producing a malt beverage. Occasionally, we must examine a statement of process or analyze samples of a malt beverage in order to determine the proper classification of a product, whether a particular product is a malt beverage, or whether a product is correctly labeled under part 7 regulations. We welcome comments on this proposal.

XII. Public Participation

A. Comments Requested

The Department of the Treasury and TTB request comments from all interested parties on the proposals contained in this notice.

We specifically request comments on other standards or approaches that would be appropriate as an alternative or addition to any final rule, including one that would limit the presence of alcohol derived from added flavors or other materials to not more than 49% of the alcohol volume of the finished product. In developing the final rule, Treasury and TTB will carefully re-evaluate the proposed standard in light of all comments and suggested alternative standards and approaches and will adopt the most appropriate standard or approach.

We also specifically request comments on:

- The proposed amendments to our regulations relating to the production, labeling, and composition of products marketed as flavored malt beverages;
- The proposed definitions for beer and malt beverages requiring these products to be composed primarily of alcohol from fermentation and that limit the contribution of alcohol from added flavors or other ingredients containing alcohol to less than 0.5% alcohol by volume;
- The proposed requirement that malt beverages containing alcohol derived from added flavors or other ingredients containing alcohol bear a mandatory alcohol content statement on their brand labels;
- Whether products currently on the market could be made under our proposed standard or under an alternative standard;
- The amount of time required to comply with any new restrictions on adding alcohol to beer and malt beverages;
- The new formula filing requirements for brewers and importers who wish to produce or import beer or malt beverages containing added flavors, added colors, or which undergo processing not customary in the production of traditional beers; and
- While we believe that our proposal is consistent with the definitions in the

Internal Revenue Code and the FAA Act, flavored malt beverages that contain a significant amount of added alcohol may not have been contemplated by Congress at the time of the statutes' enactment. Therefore, we also seek comments on whether Treasury and TTB should seek legislation that would specifically address the treatment of such products, and whether such legislation is necessary to avoid unintended economic consequences of the application of the statute under this rule.

We also specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand.

B. What Is a Comment?

In order for a submission to be considered a "comment," it must clearly indicate a position for or against the proposed rule or some part of it, or must express neutrality about the proposed rule. Comments that use reasoning, logic, and, if applicable, good science to explain the respondent's position are most persuasive in the formation of a final rule.

To be eligible for consideration, comments must:

- Contain your name and mailing address;
- Reference this notice number;
- Be legible and written in language generally acceptable for public disclosure;
- Contain a legible, written signature if submitted by mail or fax; and
- Contain your e-mail address if submitted by e-mail.

To ensure that the public is able to access our office equipment, comments submitted by fax must be no more than five pages in length when printed on 8½ by 11 inch paper. Comments submitted by mail or e-mail may be of any length.

C. How May I Submit Comments?

By mail: You may send written comments by mail to the address shown in the **ADDRESSES** section of this notice.

By fax: You may submit comments by facsimile transmission to 716-434-8041. We will treat faxed transmissions as originals.

By e-mail: You may submit comments by e-mail by sending the comments to nprm@ttb.gov. We will treat e-mailed transmissions as originals.

By online form: You may also submit comments using the comment form provided with the online copy of this proposed rule on the TTB Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. We will treat comments submitted via the Web site as originals.

Public Hearing: Any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request in writing to the Administrator within the 90-day comment period. The Administrator, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

D. How Does TTB Use the Comments?

We will carefully consider all comments that we receive on or before the closing date. We will not acknowledge receipt of comments or reply to individual comments. We will summarize and discuss pertinent comments in the preamble of any subsequent notices or the final rule published on this subject.

E. May I Review Comments Received?

You may view copies of the comments received in response to this notice of proposed rulemaking by appointment at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone 202-927-7890. You may request copies of the comments at 20 cents per page by writing to the ATF Reference Librarian at the above address.

For the convenience of the public, we will also post comments received in response to this notice on the TTB Web site. All comments posted on our Web site will show the name of the commenter, but will not show street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the ATF Reference Library. To access online copies of the comments on this rulemaking, visit <http://www.ttb.gov/alcohol/rules/index.htm>, and click on the "View Comments" button under this notice number.

F. Will TTB Keep My Comments Confidential?

We cannot recognize any material in comments as confidential. All comments and materials may be disclosed to the public in the ATF Reference Library. We may also post the comment on our Web site. (See "May I Review Comments Received?") Finally, we may disclose the name of any person who submits a comment and quote from the comment in the preamble to a final rule on this subject. If you consider your material to be confidential or inappropriate for disclosure to the