section may be increased in a specific county if that county's overall insurance experience for the crop is substantially different from the insurance experience for which the criteria was determined. The increased standard will apply until the conditions requiring the increase no longer apply. Any change in the standards will be contained in the Special Provisions for the crop.

* * * * *

(c) Insurance experience for the crop may be adjusted, by county and crop year, to discount the effect of indemnities caused by widespread adverse growing conditions. Adjustments are determined as follows:

(1) Determine the average yield for the county using the annual county crop yields for the previous 20 crop years, unless such data is not available;

(2) Determine the normal variability in the average yield for the county, expressed as the standard deviation;

(3) Subtract the result of paragraph (c)(2) from paragraph (c)(1);

(4) Divide the annual crop yield for the county for each crop year in the NCS base period by the result of paragraph (c)(3), the result of which may not exceed 1.0;

(5) Subtract the result of paragraph (c)(4) for each crop year from 1.0;

(6) Multiply the result of paragraph (c)(5) by the liability for the crop year; and

(7) Subtract the result of paragraph (c)(6) from any indemnity for that crop year. FCIC may substitute the crop yields of a comparable crop in determining paragraphs (c) (1) and (2), or may adjust the average yield or the measurement of normal variability for the county crop, or any combination thereof, to account for trends or unusual variations in production of the county crop or if the availability of yield and loss data for the county crop is limited. Alternate methods of determining the effects of adverse growing conditions on insurance experience may be implemented by FCIC if allowed in the Special Provisions.

4. Section 400.305 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 400.305 Assignment of Nonstandard Classification.

* * * * *

(c) A Nonstandard Classification may be assigned to identified insurable acreage; a person; or to a combination of person and identified acreage for a crop or crop practice, type, variety, or crop option or amendment whereby:

* * * * *

5. Section 400.307 is amended by adding two sentences at the end thereof to read as follows:

§ 400.307 Discontinuance of participation.

* * * * *

A Nonstandard Classification will no longer be applicable to the person or the person on identified acreage if the Corporation determines the person is deceased or has discontinued all farming operations for all crops, such as the legitimate sale of the farming operation to a disinterested person. If the person who discontinues all crop farming operations later returns to farming or obtains a substantial beneficial interest in a farming operation, the nonstandard classification will be reinstated.

6. In § 400.309, paragraph (a) is amended by revising the phrase ''45 days'' to read ''30 days'' and paragraphs (e) and (f) are removed.

Signed in Washington, D.C., on October 31, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–28608 Filed 11–6–96; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 7

[Notice No. 844]

RIN 1512–AB50

Use of Distilled Spirits Terms in Labeling and Advertising of Malt Beverages; Use of the Term ''Margarita'' in Labeling Distilled Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of petition.

SUMMARY: Heublein, Inc. (Heublein), a distilled spirits producer, has petitioned ATF to issue new rules relating to the labeling and advertising of distilled spirits and malt beverage products. ATF administers the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. §§ 205(e) and (f), which prohibits false and misleading statements on labels and in advertising of beverage alcohol. Specifically, Heublein has petitioned ATF to issue new rules to prohibit (1) the use of terms in the labeling of malt beverages which are the names of products customarily made with a distilled spirits base, (2) the labeling and advertising of a malt beverage in such a manner as to create the impression that it contains or is comparable to a distilled spirits product, and (3) the use of the term ''Margarita,'' or any other word commonly associated with tequila and Mexico, as a designation of any distilled spirits product which does not contain tequila.

ATF has approved labels for malt-based alcohol beverages that use cocktail names such as ''Margarita'' provided the label clearly identifies the product as a malt beverage. The purpose of this notice is to provide the public with an opportunity to comment on the additional safeguards that Heublein believes are necessary in order to prevent consumers from being misled about the composition of these malt-based alcohol beverage products.

DATES: Written comments must be received by February 5, 1997.

ADDRESSES: Send written comments to: Chief, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221; Notice No. 844. Comments not exceeding three pages may be submitted by facsimile transmission to (202) 927–8602. Copies of written comments to this notice will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 6300, 650 Massachusetts Avenue, NW, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226; telephone (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

Under existing law, ATF is charged with the enforcement responsibility of sections 105(e) and 105(f) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e) and (f), which vest in ATF the authority to regulate the labeling and advertising of alcohol beverages, including distilled spirits and malt beverages. These sections authorize the issuance of regulations that will, among other things, prohibit deception of the consumer with respect to the product, and which will provide the consumer with adequate information as to the identity and quality of the product.

More specifically, section 205 makes it unlawful for any person engaged in

business as, in pertinent part, a distiller, brewer, or vintner to sell or introduce any distilled spirits, malt beverages, or wine in interstate commerce unless such products are bottled, packaged, labeled, and advertised in conformity with the FAA Act and regulations promulgated by ATF pursuant thereto. With respect to alcohol beverage labels, ATF is specifically tasked with ensuring that consumers are adequately informed and not misled by such labels.

Under existing regulations, no person may bottle or remove for sale in interstate commerce distilled spirits or malt beverages until such person has applied for and received a certificate of label approval from ATF. As part of the approval process, ATF will advise applicants to make changes to proposed label applications in order to ensure compliance with the requirements of the statute and implementing regulations. ATF has performed this label review and approval function since the inception of the FAA Act in 1935, in order to ensure that consumers are not misled by labels of distilled spirits and malt beverage products.

In recent years there has been an increase in the number of prepackaged low alcohol products. Many products in this low alcohol category are malt beverage specialty products that prominently feature flavors as part of their name such as ''Wild Berries'' or ''Tropical Punch.'' Another recent trend by producers is to use names traditionally associated with distilled spirits cocktails as part of the designation or as a fanciful name for these malt beverage specialty products. Thus, names such as ''Strawberry Daiquiri Flavored Cooler,'' ''Pina Colada Flavored Cooler,'' ''Margarita Flavored Cooler,'' and so forth, are being used for malt-based specialties.

Pursuant to its mandate to review alcohol beverage labels, and consistent with the statutory standard of review, ATF has approved malt beverage labels that contain names such as ''Daiquiri,'' ''Pina Colada,'' ''Margarita,'' ''Planter's Punch,'' and so forth when they describe a flavor component. ATF notes that at least some of these names, such as ''Pina Colada,'' are commonly used as flavor descriptors in other products such as foods, non-alcoholic drinks, and ice cream. ATF has required that the malt beverage labels must contain a statement of composition such as ''Malt Beverage with Natural Flavors'' as part of the class and type statement. ATF has approved such labels in the belief that this requirement is sufficient to inform the consumer as to the alcoholic component of such specialties, and that consumers will not have the impression that these products contain distilled spirits or are like distilled spirits.

ATF also allows the use of the term ''Margarita'' as a flavor descriptor, both for malt-based specialty products and for distilled spirits products that do not contain tequila. In that regard, ATF notes there is no standard of identity for a ''Margarita'' in Part 5. ATF does not, however, approve malt beverage labels which contain terms such as ''Whiskey,'' ''Tequila,'' and so forth since these are the names of distilled spirits that are not contained in these malt-based specialty products.

Petition

Heublein's petition states that beverage producers are marketing malt-based specialty products with the names of cocktails customarily made with distilled spirits, despite the fact that these products contain no distilled spirits. Heublein asserts that the use of these terms in labeling and advertising malt beverages misleads consumers into believing that these products contain distilled spirits. Heublein cites the existing provisions in FAA wine regulations at 27 CFR 4.39(a)(7) and 4.64(a)(8) which prohibit use of distilled spirits terms in the labeling and advertising of wine, and states these same prohibitions should be applied to the labeling and advertising of malt beverages.

Heublein asserts that the current practices result in consumers being misled into believing that malt beverages so labeled contain distilled spirits. To support their claim that consumers are being misled, Heublein submitted two surveys showing consumers' impressions of the ingredients present in two major brands of malt-based specialty products. Consumers were asked to indicate what they believed to be the alcoholic component of malt-based flavored specialty products based on a physical examination of bottles and packaging materials as they would appear in the marketplace.

The first survey indicated that 42 percent of all respondents received some impression that brand ''A'' of a malt-based Margarita specialty product contains tequila. Sixty-nine percent of respondents indicated this product contained tequila after having been given a list of six potential alcoholic ingredients [gin, malt, rum, tequila, vodka, wine] to assist them. The percentage of persons who had the impression that this product contained tequila was slightly higher among respondents who knew that a Margarita is commonly made with tequila.

Twenty percent of respondents identified malt as an ingredient in this brand of malt-based specialty product. This increased to 44 percent identifying malt as an ingredient when the same list of six potential ingredients was presented to these respondents.

The second consumer survey yielded similar results for brand ''B'' of a malt-based Margarita specialty product. Thirty percent of respondents received the impression that it contains tequila; this increased to 64 percent after respondents were given the same list of six potential alcoholic ingredients. Similarly, 17 percent of respondents indicated that this product contains malt. The percentage of persons who had the impression that this product contained malt increased to 45 percent after these respondents were shown the list of six potential ingredients.

Based on these survey results, Heublein asserts that the use of the name of a customary distilled-spirits based cocktail on a label misleads consumers into believing that a malt-based specialty product contains distilled spirits. Heublein claims that this conclusion applies equally to all malt beverages which are labeled with the name of any cocktail customarily made with distilled spirits, and not only to those malt-based specialty products which contain the term ''Margarita'' on which the surveys are based. Heublein maintains this conclusion regardless of the presence of labeling, advertising or other material that would dispel any connection that the labeled or advertised products might have with distilled spirits.

Discussion

It is not clear whether the results of the consumer surveys submitted by Heublein regarding malt-based specialty products labeled as ''Margarita Flavored'' can be applied to similar products. For example, there is no direct evidence presented in the petition that consumers who view products labeled ''Strawberry Daiquiri Flavored Malt Beverage'' or ''Pina Colada Flavored Malt Beverage'' assume that such products contain rum.

With respect to giving the term ''Margarita'' geographic significance, Heublein asserts that the survey shows that the term ''Margarita'' is so closely associated with tequila that consumers are likely to be confused unless tequila is present in any product identified as ''Margarita.'' This action would create a geographic designation for the term ''Margarita'' and would restrict its use to distilled spirits products which contain tequila.

Heublein also asserts that distilled spirits producers are placed at a competitive disadvantage by misleading malt beverage labels. However, no direct evidence has been proffered which would substantiate this claim.

Finally, Heublein asserts that the Department of the Treasury is losing excise tax revenues as consumers replace distilled spirits products with lower-taxed malt beverages. While this may or may not be true, it is not relevant to our labeling authority under the FAA Act. Congress has chosen to tax the products at a different rate and any producer may choose to produce and market lower taxed malt-based products.

Public Participation—Written Comments

ATF requests comments from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

We would note that ATF already has received several written comments regarding the issues raised in this petition. These comments will also receive careful consideration.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that a respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927–8602, provided the comments: (1) Are legible; (2) are 8–½″ × 11″ in size; (3) contain a written signature; and (4) are three pages or less in length. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Disclosure

Copies of Heublein's full petition and written comments generated pursuant thereto will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, Room 6300, 650 Massachusetts Avenue NW, Washington, DC.

Drafting Information. This notice was written by various personnel within the Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, and Labeling.

Authority. This notice is issued under the authority of 27 U.S.C. 205.

Dated: August 22, 1996.

John W. Magaw,

Director.

Approved: September 5, 1996.

John P. Simpson,

Deputy Assistant Secretary, Regulatory, Tariff and Trade Enforcement.

[FR Doc. 96–28640 Filed 11–6–96; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–96–053]

33 CFR Part 117

Notice of Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Coast Guard announces a forthcoming public hearing for the presentation of views concerning the alteration of the Louisiana Railroad Bridge at Louisiana, Missouri.

DATES: The hearing will be held at 10 a.m., November 21, 1996.

ADDRESSES: The hearing will be held at the City Hall, 121 North 7th Street, Louisiana, Missouri.

Written comments may be submitted to and will be available for examination from 8 a.m. to 4 p.m., Monday through Friday, except holidays, at the office of the Director, Western Rivers Operations, Bridge Section, 1222 Spruce Street, St. Louis, Missouri 63103–2398.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Wiebusch, Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103–2398, (314) 539–3900 ext. 378.

SUPPLEMENTARY INFORMATION: Complaints have been received alleging that the bridge is unreasonably obstructive to navigation. Information available to the Coast Guard indicates there were 140 marine allisions with the bridge between 1984 and 1995. These allisions have caused moderate to heavy damage to the bridge. Based on this information, the bridge appears to be a hazard to navigation. This may require increasing the horizontal clearance on the bridge to meet the needs of navigation. All interested parties shall have full opportunity to be heard and to present evidence as to whether any alteration of this bridge is needed, and if so, what alterations are needed, giving due consideration to the necessities of free and unobstructed water navigation. The necessities of rail traffic will also be considered.

Any person who wishes, may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Director, Western Rivers Operations, Bridge Section, 1222 Spruce Street, St. Louis, Missouri 63103–2398, Telephone: 314–539–3900 ext. 378, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the hearing record. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Director, Western Rivers Operations, Bridge Section. Transcripts of the hearing will be made available for purchase upon request.

Authority: 33 U.S.C. 513; 49 CFR 1.46.

Dated: October 25, 1996.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 96–28652 Filed 11–6–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 05–96–010]

RIN 2115–AE84

Regulated Navigation Area; Delaware Bay and River, Salem River, Christina River, and Schuylkill River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its regulations governing a regulated navigation area on the Delaware Bay and River. The proposed changes would extend the applicability of the regulated navigation area to include the Salem, Christina, and