

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

February 27, 2024

Re: Request for Leadership to Accelerate Publication of Promised Alcohol Labeling Rules

Dear Secretary Yellen:

We write to you in your role administering the Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) to express our dismay and serious concern that TTB has backtracked from its written undertaking of November 17, 2022 agreement¹ to issue proposed rules requiring standardized nutrient content, alcohol content, ingredient, and allergen labeling on beer, wine and distilled spirits products.

For over 20 years, advocates have been pressing TTB to require a "Serving Facts" label that tells consumers the serving size, amount of alcohol (in fluid ounces or grams) and calories per serving, the percent alcohol by volume, the number of standard drinks per container and other needed information to make responsible drinking decisions. In response, TTB deliberated, asked for public comment, issued draft rules requiring mandatory labeling that were never finalized, and in 2013, settled on a voluntary rule that has been largely ineffective.

Then in 2022, TTB took an important step forward. In response to an ongoing lawsuit filed by the Center for Science in the Public Interest, Consumer Federation of America and the National Consumers League, the agency committed in writing to publish three mandatory rulemakings on nutrition, ingredients and allergen labeling for alcoholic beverages, stating that it expected to issue the rulemakings by the end of 2023.²

We welcomed TTB's response and, in a November 21, 2022 joint press release,³ went so far as to congratulate the agency for acting in consumers' interests. We were further encouraged when the Treasury Department's Spring 2023 Unified Agenda listed July 2023 as the intended date of publication for each of the three rulemakings and still felt hopeful when the Fall 2023 Unified Agenda stated TTB would issue the rulemakings in December 2023 and January 2024. Yet, these dates came and went without any proposed rules.

Now, we have been confronted with a new reality: TTB is still following its 20-year playbook of delaying progress on alcohol labeling, this time by hosting a series of public listening sessions on labeling and advertising of alcoholic beverages instead of moving directly to rulemaking.⁴

TTB should have initiated public engagement back in November 2022 when the agency agreed to issue the rulemakings, or earlier. This delay leaves many Americans at higher risk for disability, disease, and death. For the 84 percent of U.S. adults who drink alcoholic beverages⁵ – 216 million people⁶ – knowing what is in beer, wine, and distilled spirits would allow them to make informed decisions about alcohol consumption to protect their own health and safety.

Overconsumption of alcohol is a costly public health problem that has become much worse in recent years, as alcohol-related deaths have risen substantially.⁷ Alcohol is also a source of empty calories that contribute to obesity,⁸ and can impact blood sugar control in people with diabetes.⁹ Additionally, alcohol is a roadway killer accounting for about 30 percent of all traffic crash fatalities in the U.S.,¹⁰ and excessive drinking increases the risk of liver disease, hypertension, cardiovascular disease, alcohol use disorders, certain cancers, and severe injuries.¹¹

The failure to list allergens is of particular concern. Unlike other foods and beverages, manufacturers of TTB-regulated beer, wine and distilled spirits are not required to declare the presence of major allergens, which may be used as processing agents or as ingredients.^{12,13,14} The disclosure of allergen information is a life-and-death matter for some consumers and is the reason why the Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) requires allergen labeling on all Food and Drug Administration (FDA)-regulated foods and beverages. However, FALCPA does not apply to most alcoholic beverages, and even though a 2004 House committee report on FALCPA stated Congress's intent that TTB develop allergen labeling requirements for beer, wine and distilled spirits,¹⁵ the agency has not finalized a mandatory rule – 20 years later.

The FDA also has authority over the labeling of some alcoholic beverage products, notably wines containing less than 7 percent alcohol by volume (*e.g.*, some hard ciders and wine coolers) and beers not made from malted barley or hops (*e.g.*, some hard seltzers). For these alcoholic beverages, FDA requires the same Nutrition Facts panel and ingredients statements that it requires on nonalcoholic beverages, from soft drinks to juices, and alcohol companies comply. Thus, there is proof that manufacturers have the ability to put standardized “Serving Facts” labels on beer, wine, and distilled spirits products – many just prefer to withhold this information from their customers.

TTB has in effect enabled recalcitrant companies by delaying indefinitely rulemakings on mandatory alcohol labeling while opting for a voluntary rule under which labeling “Serving Facts” or “Alcohol Facts” and ingredients are optional decisions for manufacturers and there are no requirements for formatting when the information is provided. However, because TTB's rule is voluntary, most manufacturers have opted not to label their products, and on products that do have the label, it is often difficult to read or hard to find.

The extent of this labeling gap is documented by a 2023 study¹⁶ in which researchers at the Center for Science in the Public Interest (CSPI) used TTB's COLA database to examine the labels of 132 of the top beer and wine brands by sales volume in 2020. The study found that only 11 of the 65 beer brands examined (17%) and none of the 67 wine brands included ingredients lists on their labels, while 18 beers (28%) and no wines used the voluntary “Serving Facts” label, and one additional beer brand carried the voluntary “Alcohol Facts” label. CSPI's study also revealed that even when serving information is included on beer and wine labels, it is often crowded next to other text, provided in a continuous line rather than with line breaks for each separate piece of information (like the Nutrition Facts label), written in all caps, or written vertically when much of the text on the label was horizontal. This poor noticeability and readability make it hard for consumers to find information and compare different products.

TTB's agreement to end this ineffective voluntary regime by issuing rules requiring standardized alcohol content, calorie, and allergen labeling represented the high-water mark for American consumers. Yet, the agency's decision to delay the process and hold public listening sessions, while providing no new timeline for the rulemakings, shows that TTB abides by an unwavering commitment to the status quo. We fear the agency may plan to slow-walk deliberations for months and keep consumers from the information they need to make fully informed drinking decisions.

Thus, we are writing to urge you to intercede personally to require the agency to commit – in writing – to publish all three proposed rules by June 2024. This will help ensure that TTB keeps its commitment to the nation's consumers and brings about the kind of robust labeling that Americans have come to expect on every other food and beverage item they consume.

Thank you in advance for your consideration.

Respectfully,

Kenneth Mendez, President and CEO
Asthma and Allergy Foundation of America

Peter Lurie, MD, MPH, Executive Director and President
Center for Science in the Public Interest

Thomas Gremillion, Director of Food Policy
Consumer Federation of America

Jason Linde, Senior Vice President, Advocacy
FARE

Sally Greenberg, President and CEO
National Consumers League



¹ Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. Letter to Peter Lurie, Susan Weinstock, and Sally Greenberg. November 17, 2022. Available at: <https://www.cspinet.org/resource/ttb-letter-re-alcohol-facts-label-petition>.

² *Id.*

³ Center for Science in the Public Interest. Consumer groups obtain TTB commitment to issue rulemakings on mandatory alcohol labeling. November 21, 2022. Available at: <https://www.cspinet.org/press-release/consumer-groups-obtain-ttb-commitment-issue-rulemakings-mandatory-alcohol-labeling>

⁴ Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages with Alcohol Content, Nutritional Information, Major Food Allergens, and Ingredients; Announcement of listening sessions; request for comments. 89 Fed. Reg. 6171. January 31, 2024.

⁵ Substance Abuse and Mental Health Services Administration. 2022 National Survey on Drug Use and Health. Data Table 2.25B- Alcohol Use in Lifetime: Among People Aged 12 or Older; by Age Group and Demographic Characteristics, Percentages, 2021 and 2022. Available at: <https://www.samhsa.gov/data/release/2022-national-survey-drug-use-and-health-nsduh-releases#annual-national-report>

⁶ Substance Abuse and Mental Health Services Administration. 2022 National Survey on Drug Use and Health. Data Table 2.25A- Alcohol Use in Lifetime: Among People Aged 12 or Older; by Age Group and Demographic Characteristics, Numbers in Thousands, 2021 and 2022. Available at: <https://www.samhsa.gov/data/release/2022-national-survey-drug-use-and-health-nsduh-releases#annual-national-report> .

⁷ Estimates of alcohol-related deaths skyrocketed 25.5% during the first year of the pandemic (2020) followed by a 9.9% increase in deaths during 2021, the most recent year for which data are available. National Institute on Alcohol Abuse and Alcoholism. Alcohol-related deaths, which increased during the first year of the COVID-19 pandemic, continued to rise in 2021. Available at: <https://www.niaaa.nih.gov/news-events/research-update/alcohol-related-deaths-which-increased-during-first-year-covid-19-pandemic-continued-rise-2021>

⁸ Robinson E, et al. Alcohol, calories and obesity: A rapid systematic review and meta-analysis of consumer knowledge, support and behavioral effects of energy labeling on alcoholic drinks. *Obesity Reviews*. 2021 Jun;22(6): e13198.

⁹ ElSayed NA, et al. Glycemic Targets: Standards of Care in Diabetes- 2023. *Diabetes Care*. 2023;46(Suppl. 1): S97-S110. <https://doi.org/10.2337/dc23-S006>.

¹⁰ U.S. Department of Transportation, National Highway Traffic Safety Administration. Overview of Motor Vehicle Traffic Crashes in 2021 (Report No. DOT HS 813 435). <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813435>.

¹¹ World Health Organization. Global status report on alcohol and health 2018. <https://www.who.int/publications/i/item/9789241565639>.

¹² Deckwart M, et al. 2014b. Impact of wine manufacturing practice on the occurrence of fining agents with allergenic potential. *Food Addit Contam A* 31(11):1805–17. doi: 10.1080/19440049.2014.963700.

¹³ Uberti F, et al. 2014. Immunochemical investigation of allergenic residues in experimental and commercially-available wines fined with egg white proteins. *Food Chem* 159(0):343–52. doi: 10.1016/j.foodchem.2014.03.025.

¹⁴ Stockley CS, et al. 2015. Adverse food reactions from consuming wine. *Aust J Grape Wine Res* 21:568–81. doi: [10.1111/ajgw.12171](https://doi.org/10.1111/ajgw.12171).

¹⁵ H.R. Rep. No. 608, 108th Cong., 2d Sess., at 3 (2004)

¹⁶ Greenthal E & Sorscher S. Implementation of Voluntary Nutrition Labeling Policies on Wine and Beer Sold in the United States. *Curr Dev Nutr*. 2023. 7;Supplement 1:101654. Doi: 10.1016/j.cdnut.2023.101654.