

MESSAGE FROM GENERAL COUNSEL

To: Pennsylvania Distillers Guild – Leadership and Member Distilleries

From: Anthony M. Brichta, Esq., General Counsel

Date: December 14, 2024

Re: New TTB Rule on the Standards of Identity for American Single Malt Whisky

On December 13, 2024, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued its long-awaited [final rule](#) (the “Rule”) which establishes formal definitions for both “American single malt whisky” and “straight American single malt whisky”. In both cases, the TTB is requiring that the base mash for the whiskey be 1) fermented from 100 percent malted barley produced in the United States, 2) be distilled to 160 proof or less at the same distillery in the United States, 3) be stored and aged in either used, new charred or new oak barrels no greater than 700 liters (185 gallons), 4) not use any neutral spirits, and 5) not use any coloring, flavorings, or other blending materials with the exception of caramel color (which must be disclosed on the label). Like other whiskeys such as bourbon and rye, a “Straight American single malt whisky” must be aged at least two (2) years. The new Rule is scheduled to be published on December 18, 2024 and is effective on January 19, 2025.

Notably, the new Rule allows distillers to use a wide range of barrel sizes and also permits the use of new charred, new uncharred, and used barrels which may lead to a number of different styles and expressions in the American single malt category and will allow distillers the ability to repurpose barrels they have used for other products to be used for their American single malt whiskeys.

These new standards of identity help provide clarity to distilleries in Pennsylvania who are already producing whiskeys made from malted barley and may also help Pennsylvania-based malt houses who are already working with Pennsylvania distilleries to better cross-market the whiskeys made with local malt.

It is important to note that prior to the adoption of the Rule, many distilleries have been producing and labeling products as “American Single Malt” whisky under the absence of specific standards and the TTB has previously approved Certificates of Label Approval (COLA) for those products that generally met the definition of a “malt whisky” before the new Rule. Because the new Rule provides additional requirements, the TTB has provided for a “transition period” which allows distillers in the United States to continue to use the term “American Single malt whisky” or “straight American single malt whisky” for products that met the applicable standards before the new Rule, but those products must be bottled before January 19, 2030.

Distillers that are currently producing products they intend to market and label as an “American Single Malt” should make sure such products comply with the new Rule or ensure that such products are bottled prior to January 19, 2030. The new standards will be added to Section 5.143 of the Code of Federal Regulations which will include the following chart:

Table 1 to Paragraph (c)—Types of Whisky and Production, Storage, and Processing Standards

Type	Source	Distillation proof	Storage	Neutral spirits permitted	Allowable coloring, flavoring, blending materials permitted
* * * * *					
(15) American single malt whisky	Fermented mash of 100 percent malted barley, produced in the United States	160 or less, distilled at the same distillery in the United States	Used, charred new, or uncharred new oak barrels; 700-liter maximum capacity; stored only in the United States	No	No, except for caramel coloring and only if disclosed on the label.
(16) Straight American single malt whisky	Fermented mash of 100 percent malted barley, produced in the United States	160 or less, distilled at the same distillery in the United States	Used, charred new, or uncharred new oak barrels for a minimum of 2 years; 700-liter maximum capacity; stored only in the United States	No	No, except for caramel coloring and only if disclosed on the label.

Guild Members may also be free to contact Attorney Brichta with any questions or concerns regarding this Guidance from the TTB or other legal issues relating to standard of identity, labels, and other issues that may affect member distilleries. (ambrichta@norris-law.com or 484-765-2256).