IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ATLAS BREW WORKS, LLC, Plaintiff, v. MATTHEW G. WHITAKER, in his official capacity as Acting Attorney General of the United States, Defendant.	)	Civil Action No. 19-0079-CRC

MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Plaintiff Atlas Brew Works LLC submits the following memorandum of points and authorities in reply to Defendant's opposition to Plaintiff's motion for temporary restraining order and preliminary injunction.[1]

Dated: January 21, 2019

Respectfully submitted,

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By: /s/ Alan Gura
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[1] To the extent Defendant's opposition contained a motion to dismiss, opposition to that motion will be briefed in due time in accordance with the Court's rules.

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INTRODUCTION

The government's opposition is largely an exercise in concession-by-omission. The government fails to dispute that:

- The First Amendment secures the right to publish beer labels.
- The government, today, prohibits the publication of new beer labels. It has prohibited the publication of new beer labels for the past month, and it will continue prohibiting the publication of new beer labels until and unless Congress enacts a new law.
- The government lacks any interest in prohibiting the publication of new beer labels.
- Even if the government's prohibition of new beer labels materially advanced some regulatory interest, the prohibition would be wildly overbroad.
- The government maintains a content-based prior restraint on speech, unbounded by time.
- Atlas suffers an injury to its First Amendment rights in being barred from publishing, not only its desired PRECIOUS ONE keg label, but *all* upcoming beer labels.

Simply put, the government makes no effort to challenge the merits of Atlas's constitutional argument. Instead, it advances arguments clearly foreclosed by Supreme Court precedent: That Atlas's injuries are self-inflicted because it *chooses* to speak where prohibited by the challenged law, and that people must submit to an administrative process to challenge its constitutional adequacy. This is not the law.

Even were Atlas to reconfigure its PRECIOUS ONE can label for keg use, it would still suffer significant First Amendment harm in being unfree to speak as it wishes with respect to this product. Using an undesirable label for one beer alleviates neither the First Amendment injury with respect to

that product, nor the First Amendment injuries with respect to all the other products which cannot obtain any label approval at all.

The government's silence on the latter point is profound. Facing a motion for preliminary injunctive relief against a severe, undeniable First Amendment injury, the government says *nothing* on the subject of irreparable harm caused by its categorical prohibition of protected speech. Nor does the government have much to say on the subject of the equities and the public interest beyond claiming that Congress acts with good intentions, as though that matters in assessing the public interest in the protection of fundamental rights.

The government had until January 25 to oppose the motion for a preliminary injunction, but it elected to have its opposition to the motion for a temporary restraining order serve as the opposition to all the requested preliminary injunctive relief. There being nothing left to argue beyond these papers, the Court should rule today on the motion for a preliminary injunction—and grant it.

ARGUMENT

I. ATLAS HAS STANDING.

This is a pre-enforcement challenge to an active criminal prohibition on speech. "[T]he D.C. Circuit has interpreted the Supreme Court's pre-enforcement standing doctrine broadly in the First Amendment sphere." *Sandvig* v. *Sessions*, 315 F. Supp. 3d 1, 15 (D.D.C. 2018). "Standing 'to challenge laws burdening expressive rights requires only a credible statement by the plaintiff of intent to commit violative acts and a conventional background expectation that the government will enforce the law.'" *United States Telecom Ass'n* v. *FCC*, 825 F.3d 674, 739 (D.C. Cir. 2016) (quoting *Act Now to Stop War & End Racism Coalition* v. *District of Columbia*, 589 F.3d 433, 435 (D.C. Cir. 2009)) (parallel citation omitted).

Atlas plainly intends to publish labels for which it has no COLA, subjecting it to criminal liability. Nothing in the government's brief disclaims an interest in prosecuting COLA violations. Atlas has standing.

A. The Government Does Not Question Atlas's Standing with Respect to the Preliminary Injunction's Scope—the Publication of Beer Labels Generally.

The government challenges Atlas's standing only with respect to the subject of the motion for a temporary restraining order, Atlas's keg collar label for THE PRECIOUS ONE. It offers nothing with respect to Atlas's request for a preliminary injunction covering beer labels. That matter appears conceded.

B. Atlas Intends to Publish Its Label—Not the Government's.

The prohibition of Atlas's keg label for THE PRECIOUS ONE harms Atlas in two ways. First, Atlas "expresses itself" through its labels, not only by communicating particular information, Cox Decl., 1/15/19, ¶ 3, but through a conscious design process that "seeks to enhance consumers' enjoyment of its product and convey further the Atlas brand," *id.* ¶ 4. Second, Atlas "cannot sell" beer without a label. *Id.* ¶ 3. Accordingly, Atlas asserts its irreparable harm both with general respect to its First Amendment rights and the rights of its customers, and "[m]oreover," to the extent that it suffers financial harm in being unable to sell THE PRECIOUS ONE kegs in interstate commerce, and other beers generally. Atlas Br., 1/15/19, at 15; *see also id.* at 16 ("Atlas and its customers are suffering a serious violation of their First Amendment rights, *and* Atlas stands to sustain a significant, irremediable financial loss") (emphasis added).

The government alleges that Atlas can design a different label for THE PRECIOUS ONE kegs, minimizing or averting its financial injury with respect to that product. The suggestion is inconsistent with TTB's usual understanding of the subject, and for good reason.

The TTB and beverage producers share an interest in minimizing the need for new COLA applications. TTB's guidance thus allow for various minor label revisions and updates that do not implicate the need for a new COLA. But TTB has acknowledged that it would be "unlikely" that the alteration regime could be used to lawfully create a functional label for one container, from a label authorized for a different type of container. *See* TTB Industry Circular 2018-2, https://www.ttb.gov/industry circulars/archives/18-2.shtml (last visited Jan. 20, 2019). Deleting text and graphics from an existing label is usually viewed as an allowable alteration. Adding text and graphics suited to a different type of container to an existing label effectively creates a new label, requiring TTB review for a new COLA.

Ms. Scalese's block quote of Industry Circular 2018-2, Scalese Decl., ¶ 6, includes the TTB's acknowledgment that the prohibition on adding container-specific information will usually be a deal-breaker. "TTB wishes to caution industry members about using [the shape and proportionate size] allowable revision when changing between different types of containers." Scalese Decl., ¶ 6 (quoting TTB Industry Circular 2018-2, § 5). Indeed—the first example given under this caution is "changing from a keg label to a bottle label." *Id.*

The advisory continues:

> [Y]ou may not add information or graphics (unless specifically authorized by the list of allowable revisions) without obtaining a new COLA. These restrictions make it unlikely that you will be able to use a label approved for one type of container for a different type of container without submitting the new label to TTB for approval.

Id. In other words, the government accepts that different containers could be expected to have different text and graphics, making container-to-container "alterations" that avert the need for a new COLA "unlikely." Only in opposing injunctive relief does "unlikely that you will be able" suddenly become "this language does not preclude." *Id.*

That the alteration scheme "does not preclude" a can-to-keg conversion is true only if Atlas would tolerate the loss of its keg collar trade dress, including its graphics and check-off references to its other brands consistent with other labels, and the relegation of its keg-specific pressure warning to a separate hangtag. *See, e.g.,* Exh. C; Exh. D.[2]

Atlas is principled, but not impractical. Atlas would take whatever action necessary to mitigate its damages—but doing so would not undo the injury to its constitutional rights and the rights of its consumers. Atlas wants to publish *its* label, designed to communicate with its customers, not some other label designed by government lawyers seeking to avoid an injunction. If the government threatened the Coca Cola Company with prosecution for selling red cans, insisting instead on green cans, the Company might well resort to selling Coke in green cans while it seeks injunctive relief for its First Amendment injury. Likewise, book publishers and movie studios, whose products are inherently expressive, would be heard to object to censorship on First Amendment grounds, even if their primary motivation would be the protection of their commercial interests. But the government cannot censor books and movies, and claim that there is no First Amendment injury because the publisher remains "free" to sell the censored work.

Atlas appreciates that the TTB might want to assist brewers in mitigating the shutdown's damage. Atlas might well take advantage of Ms. Scalese's proposal and concoct a rudimentary and unsightly keg label scavenged from its approved can-specific label, lacking Atlas's trade dress and standing inconsistent with the rest of Atlas's lineup, if that is what it would take to avoid a complete loss of the beer destined for interstate shipment. But it would not be speaking freely. There being no

[2]The government does not argue that there would be any reason to prohibit Atlas's proposed PRECIOUS ONE label. As the brewer's approved keg collars attest, the government would almost certainly approve the application.

issue of Atlas's First Amendment injury in being barred from publishing *its* label, as opposed to the government's alternative, Atlas remains entitled to injunctive relief securing its First Amendment rights in its keg collar for THE PRECIOUS ONE.

II. EVEN IF ADMINISTRATIVE REMEDIES EXISTED, ATLAS COULD NOT BE REQUIRED TO EXHAUST THEM.

The government's administrative exhaustion argument lacks merit, as it misreads the complaint. However, before addressing the various ways in which the argument is legally precluded, Atlas is constrained to point out that the government does not fully and accurately describe the administrative scheme.

As the government points out, were the TTB operational, it would initially assign itself 90 days to review a COLA, a period it could double assuming that someone shows up at work to make that decision. 27 C.F.R. § 13.21. But the administrative appeal described in 27 C.F.R. § 13.25 would allow for a similar 90 day period, also subject to being doubled by a working TTB employee. 27 C.F.R. § 13.26(b). That decision would then be subject to a *second* administrative appeal within TTB, also subject to a pair of 90 day time periods. 27 C.F.R. § 13.27(b). Only then would the administrative scheme countenance judicial review. 27 C.F.R. § 13.27(c).

In total, the administrative scheme purports to allow the government to prohibit publication of a beverage label for an astonishing 540-day censorship review period. Doubtless long before the TTB would develop a habit of taking 540 days to review a COLA application, the alcohol industry would bury the agency in litigation. Any exhaustion defenses, for not waiting 540 days to speak before complaining of the scheme's First Amendment impact, would fail in those cases as they do here.

A. Exhaustion Requirements Are Inapplicable to Prior Restraint Challenges.

Plaintiffs are not required to exhaust administrative remedies before challenging a content-based prior restraint on speech. "The Constitution can hardly be thought to deny to one subjected to the restraints of [a licensing law] the right to attack its constitutionality, because he has not yielded to its demands." *Lakewood* v. *Plain Dealer Pub. Co.*, 486 U.S. 750, 756 (1988) (quoting *Shuttlesworth* v. *Birmingham*, 394 U.S. 147, 151 (1969)) (internal quotation omitted) (see other collected cases); *G & V Lounge* v. *Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1075 (6th Cir. 1994).

There is no requirement that Atlas even apply for a COLA before challenging the COLA regime, or any aspect of it. When people complain that a process is constitutionally defective, forcing them to submit to that process proves nothing, and it cannot be required.

B. Constitutional Arguments Are Not Subject to Administrative Exhaustion.

The common-sense rule that administrative exhaustion requirements do not swallow the prior restraint doctrine is an example of a more-basic exhaustion doctrine. Agencies cannot immunize themselves from judicial scrutiny by a wave of the regulatory hand. Administrative exhaustion is required not by regulators, but by courts, and only when it suits the interests of judicial efficiency, as determined by courts. "[T]he exhaustion requirement is not in general jurisdictional in nature. When the reasons supporting the doctrine are found inapplicable, the doctrine should not be blindly applied." *Andrade* v. *Lauer*, 729 F.2d 1475, 1484 (D.C. Cir. 1984) (citations and internal quotation marks omitted).

The Supreme Court explained when exhaustion is required—and when it is not. An agency must be allowed to "correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review."

Weinberger v. Salfi, 422 U.S. 749, 765 (1975) (citation omitted). But when "the only issue is the constitutionality of a statutory requirement, a matter which is beyond [regulatory] jurisdiction to determine," and there are no other issues, an administrative process cannot be required. *Id.*

The statutory requirement here is 27 U.S.C. §§ 205(e) and 207's requirement that Atlas obtain a COLA before publishing a label. Atlas challenges the constitutionality of this requirement because COLAs are not available as a matter of law, and because the current regime does not contain, as it must, "a 'specified brief period' for officials to decide whether or not to issue a permit." Atlas Br., 1/15/19, at 13 (quoting *Boardley* v. *United States DOI*, 615 F.3d 508, 518 (D.C. Cir. 2010)); *Freedman* v. *Maryland*, 380 U.S. 51, 59 (1965).

These questions are beyond the TTB's jurisdiction to determine. The TTB only applies the COLA regulations (and does so when it's open). Accordingly, exhaustion would be futile. The TTB would not pass on the question of whether it is constitutional to require a COLA in the first place, even if it were open for business, and regardless of whether it takes one day, one week, or one year to obtain a COLA. Waiting for 540 days, or 90 days, or one more day, will not imbue a TTB officer with jurisdiction over such purely constitutional questions. "The federal courts universally dispense with the exhaustion requirement in situations where the very administrative procedure under attack is the one that the agency says must be exhausted." *American Ass'n of Cosmetology Sch.* v. *Riley*, 170 F.3d 1250, 1260 (9th Cir. 1999) (citing *Barry* v. *Barchi*, 443 U.S. 55, 65 n.10 (1979) ("exhaustion of administrative remedies is not required when the question of the adequacy of the administrative remedy . . . [is] for all practical purposes identical with the merits of [the plaintiff's] lawsuit.") (internal quotation marks omitted)) (other citations omitted); *accord Free Enter. Fund* v. *Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 490 (2010) ("petitioners object to the Board's existence, not to any of its auditing standards").

The current state of affairs, by which the government stands ready to prosecute speakers for not obtaining an unavailable license, either violates the First Amendment or it does not. That is a question that only the Court—not a TTB administrator, furloughed or not—can answer.

The government appears to miss this essential aspect of the lawsuit, asserting "TTB has not unreasonably delayed any action and there is no ripe case or controversy" because the TTB's time period has not yet expired. Opp. Br. at 12. Again, the exhaustion doctrine is not jurisdictional. *Andrade*, 729 F.2d at 1484. And Atlas does not accuse the TTB of having caused any unreasonable delay. The TTB is not a defendant here. To be sure, had TTB adopted a practice of delaying COLA actions for 90 days, let alone 540 days, it *would* be sued for maintaining that practice, and there most certainly *would* be a case or controversy as to whether or not such a practice is constitutional, even if the TTB would prevail on the merits. But TTB's practice is an abstract concept. The agency is closed. The questions on which it would pass, were it open, are not before the Court.

Reading between the lines, the government may be asserting that there is no injury because surely, *someone* would approve Atlas's December 20 applications within the next 57 days. The argument is flawed three ways. First, it is highly speculative. Nobody knows when COLAs might be approved. Atlas did not sue on the first day of the shutdown, either. Second, the government *assumes*, but does not justify, a legally dubious proposition: that the outer limits of the existing regulations are constitutional, and therefore, it is acceptable to engage in the fiction that we are currently in a 90 or 180 or 540-day review period. Again, until now, the 540-day limit TTB assigned itself was utterly theoretical. The government should not be eager to see it tested.[3]

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[3]The government overstates matters in claiming that Atlas "recognizes and acknowledges that the statutory and regulatory provisions governing COLAs are reasonable and fair and well-within constitutional bounds." Opp. Br. at 13. Atlas could live with the COLA process as it functioned on December 21, when it took only approximately three weeks to obtain approval,

But the bottom line remains that Atlas complains *because* the TTB is closed indefinitely. It is no answer to be told, "wait for the TTB to reopen." Waiting only prolongs and compounds the injury. The TTB process, after all, can only yield a COLA. The injury of being held silent today, and every day that this persists, cannot be undone by an administrator. It can only be halted, by the Court.

III. THE GOVERNMENT INJURES PEOPLE WHEN IT COMPELS THEIR SILENCE.

Atlas takes issue with the following statement:

> Plaintiff has also acknowledged that its product ("The Precious One") will not perish for at least 120 days and that it began brewing the product on January 3, 2019, well after the lapse in appropriations began and thus with full knowledge of the temporary break in agency appropriations.

Opp. Br. at 13.

It should have been obvious, but Atlas would not sell beer past its sell-by date. It hopes that the beer sells out by May, not only for this reason, but because the beer is "seasonal," Cox Decl., 1/15/19, ¶ 10, meaning, it will be replaced by something else in the summer. Atlas also needs the tank cleared. *Id.*

But what is the relevance of the fact that Atlas *remained in business* "well after the lapse in appropriations began"? The government suggests that Atlas injured itself by deigning to speak when it should have known full-well that the speech licensing office is closed. Presumably the government would extend this "self-injury" logic to Atlas's intent to remain in business by brewing other beers that as-yet lack COLAs; to other brewers, distillers, and vintners who "choose" to remain in business though they have no approval for their beverage labels; and indeed, to all Americans who may require an unavailable government license to exercise a fundamental right. The government also

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without the delays and uncertainty now hurting Atlas more each passing day.

speaks of Atlas's "full knowledge of the temporary break," but it does not disclose exactly how temporary this break may prove. Atlas still does not know, and neither does the government, and neither does the Court. Nobody knows.

What is known is that the Supreme Court has rejected the government's disappointing view of the First Amendment. Reviewing various cases upholding access to the courts, the Court offered that a "plaintiff's own action (or inaction) in failing to violate the law eliminates the imminent threat of prosecution, but nonetheless does not eliminate Article III jurisdiction." *Medimmune, Inc.* v. *Genentech, Inc.*, 549 U.S. 118, 129 (2007). "In each of these cases, the plaintiff had eliminated the imminent threat of harm by simply not doing what he claimed the right to do . . . That did not preclude subject-matter jurisdiction because the threat-eliminating behavior was effectively coerced." *Id.* (citations omitted).

People do not injure themselves by speaking in a way subject to censorship. The government injures people by censoring them, whether they remain silent or not. The notion that Atlas has created its own injury, because it requires the ability to speak notwithstanding the speech licensing office's indefinite closure, cannot be the law.

IV. THE FIRST AMENDMENT INJURIES, CAUSED BY DEFENDANT, ARE IRREPARABLE.

The government cites *Chaplaincy of Full Gospel Churches* v. *England*, 454 F.3d 290, 301 (D.C. Cir. 2006), for the proposition that "there is no *per se* rule that a violation of freedom of expression *automatically* constitutes irreparable harm." Opp. Br. at 13.

The quotation is too selective. As the D.C. Circuit elaborated on that very page, plaintiffs "must also establish they are or will be engaging in constitutionally protected behavior to demonstrate that the allegedly impermissible government action would chill allowable individual conduct." *Chaplaincy*, 454 F.3d at 301. "[M]ovants must show that their First Amendment interests

are either threatened or in fact being impaired at the time relief is sought." *Id.* (internal quotation marks omitted). "Where a plaintiff alleges injury from a rule or regulation that directly limits speech, the irreparable nature of the harm may be presumed." *Id.* (internal quotation marks omitted).

How is any of this even subject to dispute here? The government does not explain. Atlas is obviously publishing beer labels and intends to continue doing so. That is why it seeks the injunction. Atlas's rights are threatened and impaired *now*. And the challenged law most certainly limits speech directly; should Atlas publish unapproved labels, it might be prosecuted. Seeking to evade responsibility for the injury, the government offers that "[t]his is not a case where the FAAA, by its own terms, prohibits Plaintiff's constitutionally-protected speech." Opp. Br. at 13. Not true. The FAAA, by its own terms, imposes criminal liability on Atlas for engaging in constitutionally-protected speech. Not a word of the government's brief even attempts to explain how Atlas's speech might *not* be constitutionally-protected. The government believes that the COLA process is perfectly constitutional. Maybe, maybe not. But that is irrelevant, because the COLA process *does not exist as a matter of law at the present time*. All that exists is a criminal prohibition on protected First Amendment speech that would be exercised immediately. That prohibition should be enjoined.

V. THE EQUITIES WEIGH IN ATLAS'S FAVOR.

The government's discussion of the balancing of the equities also suffers from selective quotation. The government quotes *Pursuing America's Greatness* v. *FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016), for the proposition that "the government's interest *is* the public interest," which it then follows with the pithy argument that the equities weigh in its favor because "Plaintiff seeks to enjoin an Act of Congress that was intended to serve the public interest," Opp. Br. at 14 (internal quotation marks omitted). Except that the very page of *Pursuing America's Greatness* quoted by

the government explained that "[e]nforcement of an unconstitutional law is always contrary to the public interest." 831 F.3d at 511.

The government cannot avoid injunctions merely by proclaiming that Congress meant well in enacting a law. Of course it did. Here, Congress also did not intend to prohibit all beer labels.

Nor is it true that Atlas seeks to enjoin the FAAA wholesale. The government could still file actions to "prevent and restrain" any other violations of the Act, 27 U.S.C. § 207, including any violations of Section 205(e)'s labeling standards. The COLA requirement is only *one* means of enforcing labeling standards. The government could still prosecute violations of Section 203, licensing breweries. It could still act against violations of the Alcoholic Beverage Labeling Act of 1988, 27 U.S.C. § 213 et seq. Atlas does not seek the end of alcohol labeling regulation. It seeks the injunction only of a prior restraint.

CONCLUSION

Everyone wants the shutdown to end. Arguments could be made that the optimal solution is to have a functioning TTB, administering COLAs as a prior restraint. But that is not an option here. The Court can only work with the laws enacted by Congress, which now include a criminal prohibition on protected speech, but do not include the operation of any licensing system. The government has no defense on the merits, and the harm to fundamental First Amendment expression is extreme and growing more severe by the day.

The motions for a temporary restraining order and for a preliminary injunction should be granted.

Dated: January 21, 2019

Respectfully submitted,

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703.835.9085/Fax 703.997.7665

By: /s/ Alan Gura
Alan Gura

Attorney for Plaintiff Atlas Brew Works LLC

OMB No. 1513-0020

OMB No. 1513-0020

FOR TTB USE ONLY	DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU **APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL** (See Instructions and Paperwork Reduction Act Notice on Back)
TTB ID 17360001000045	
1. REP. ID. NO. *(If any)*: CT 901 / OR 4K	

PART I - APPLICATION

2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. *(Required)*	3. SOURCE OF PRODUCT *(Required)*
BR-DC-20003	☑ Domestic ☐ Imported

4. SERIAL NUMBER *(Required)*	5. TYPE OF PRODUCT *(Required)*
17DD18	☐ WINE ☐ DISTILLED SPIRITS ☑ MALT BEVERAGE

8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL *(Required)*

ATLAS BREW WORKS, ATLAS BREW WORKS LLC
2052 W WEST VIRGINIA AVE NE STE 102

WASHINGTON DC 20002

6. BRAND NAME *(Required)*
ATLAS BREW WORKS

7. FANCIFUL NAME *(If any)*
DANCE OF DAYS

8a. MAILING ADDRESS, IF DIFFERENT

9. FORMULA

10. GRAPE VARIETAL(S) *(Wine Only)*
N/A

11. WINE APPELLATION *(If on label)*

12. PHONE NUMBER
(202) 832-0420

13. EMAIL ADDRESS
justin@atlasbrewworks.com

14. TYPE OF APPLICATION *(Check applicable box(es))*

a. ☑ CERTIFICATE OF LABEL APPROVAL

b. ☐ CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)

c. ☐ DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE ____ _____ (Fill in amount)

d. ☐ RESUBMISSION AFTER REJECTION TTB ID. NO. _____

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

PART II - APPLICANT'S CERTIFICATION

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

16. DATE OF APPLICATION	17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT	18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT
12/26/2017	(Application was e-filed)	Justin Cox

PART III - TTB CERTIFICATE

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

19. DATE ISSUED	20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
12/27/2017	

OMB No. 1513-0020

	

FOR TTB USE ONLY	
QUALIFICATIONS TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable. **STATUS** THE STATUS IS APPROVED. **CLASS/TYPE DESCRIPTION** BEER	**EXPIRATION DATE (If any)**

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front)

Actual Dimensions: 7 inches W X 7 inches H

Note: The image below has been reduced to fit the page. See actual dimensions above.

TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

OMB No. 1513-0020

FOR TTB USE ONLY	DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU **APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL** (See Instructions and Paperwork Reduction Act Notice on Back)
TTB ID 18002001000496	

1. REP. ID. NO. *(If any)*	CT	OR
	906	4K

PART I - APPLICATION

2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. *(Required)*	3. SOURCE OF PRODUCT *(Required)*
BR-DC-20003	☑ Domestic ☐ Imported

4. SERIAL NUMBER *(Required)*	5. TYPE OF PRODUCT *(Required)*
18BOGS	☐ WINE ☐ DISTILLED SPIRITS ☑ MALT BEVERAGE

8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL *(Required)*

ATLAS BREW WORKS, ATLAS BREW WORKS LLC
2052 W WEST VIRGINIA AVE NE STE 102

WASHINGTON DC 20002

6. BRAND NAME *(Required)*
ATLAS BREW WORKS

7. FANCIFUL NAME *(If any)*
BLOOD ORANGE GOSE

8a. MAILING ADDRESS, IF DIFFERENT

9. FORMULA	10. GRAPE VARIETAL(S) *(Wine Only)*
	N/A

11. WINE APPELLATION *(If on label)*

12. PHONE NUMBER	13. EMAIL ADDRESS
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01/02/2018	(Application was e-filed)	Justin Cox

PART III - TTB CERTIFICATE

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

19. DATE ISSUED	20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
01/03/2018	

OMB No. 1513-0020

Stephanie Fields

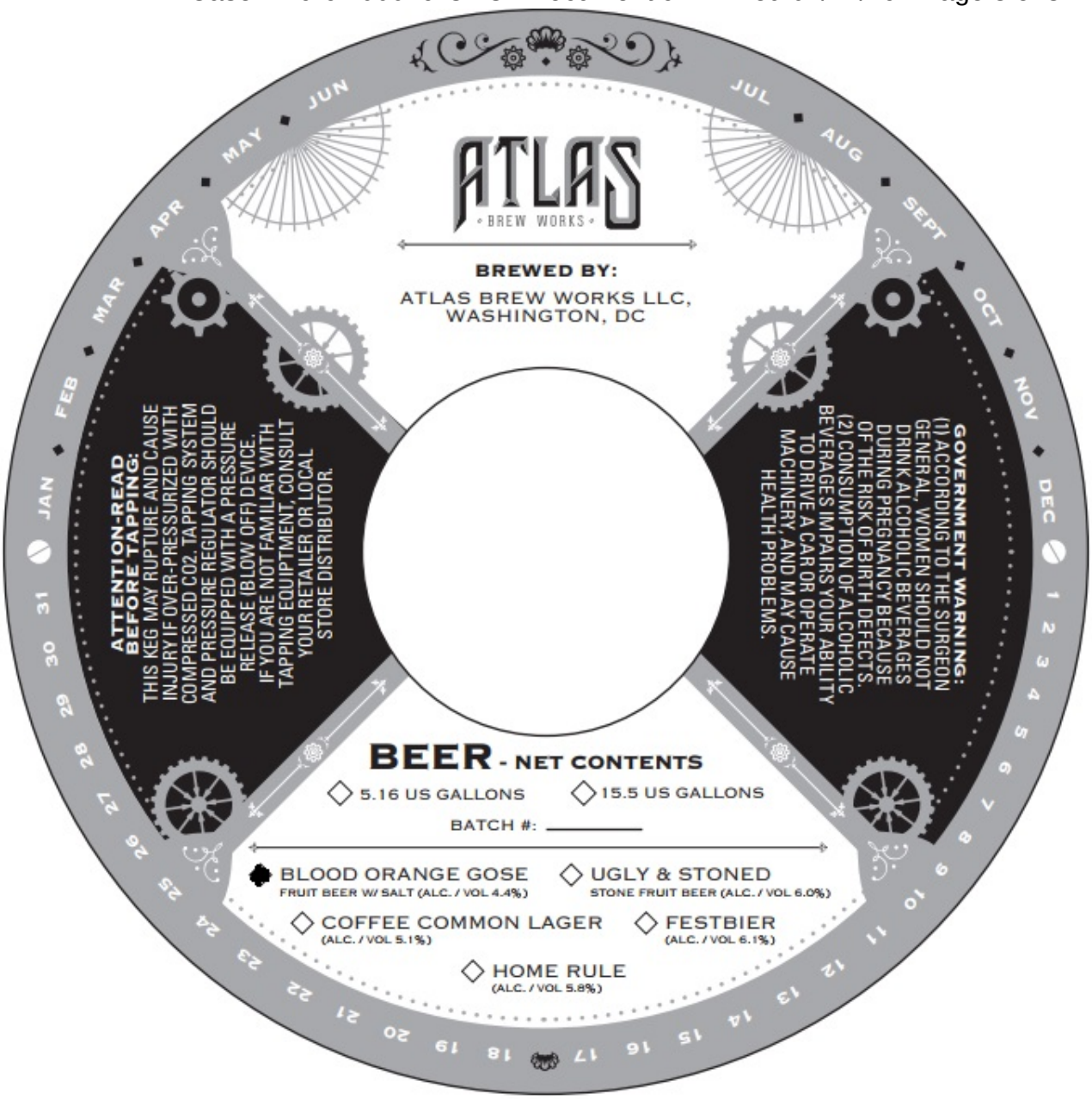
FOR TTB USE ONLY	
QUALIFICATIONS This COLA is conditioned upon compliance with TTB Ruling 2015-1 TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable. **STATUS** THE STATUS IS APPROVED. **CLASS/TYPE DESCRIPTION** MALT BEVERAGES SPECIALITIES - FLAVORED	**EXPIRATION DATE (If any)**

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front)
Actual Dimensions: 7 inches W X 7 inches H

Note: The image below has been reduced to fit the page. See actual dimensions above.



TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE