

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 924]

RIN 1512-AC29

Proposed Addition of New Grape Variety Names for American Wines (2000R-322P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, and Firearms (ATF) is proposing to add four new names to the list of prime grape variety names for use in designating American wines: Albariño, Alvarinho, Black Corinth, and Fiano.

DATES: Written comments must be received by September 17, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 924).

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Bureau of Alcohol, Tobacco and Firearms, Regulations Division, 111 W. Huron Street, Room 219, Buffalo, NY, 14202-2301; Telephone (716) 551-4048.

SUPPLEMENTARY INFORMATION:**1. Background**

Under the Federal Alcohol Administration Act (27 U.S.C. § 201 *et seq.*) (FAA Act), wine labels must provide “the consumer with adequate information as to the identity and quality” of the product. The FAA Act also requires that the information appearing on wine labels not mislead the consumer.

To help carry out these statutory requirements, ATF has issued regulations, including those that designate grape varieties. Under 27 CFR § 4.23(b) and (c), a wine bottler may use a grape variety name as the designation of a wine if not less than 75 percent of the wine (51 percent in the case of wine made from *Vitis labrusca* grapes) is derived from that grape variety. Under § 4.23(d), a bottler may use two or more grape variety names as the designation of a wine if all of the grapes used to make the wine are of the labeled varieties, and if the percentage of the wine derived from each grape variety is shown on the label.

Treasury Decision ATF-370 (61 FR 522), January 8, 1996, adopted a list of grape variety names that ATF has determined to be appropriate for use in designating American wines. The list of prime grape names and their synonyms appears at § 4.91, while additional alternative grape names temporarily authorized for use are listed at § 4.92. ATF believes the listing of approved grape variety names for American wines will help standardize wine label terminology, provide important information about the wine, and prevent consumer confusion.

ATF has received petitions proposing that new grape variety names be listed in § 4.91. Under § 4.93 any interested person may petition ATF to include additional grape varieties in the list of prime grape names. Information with a petition should provide evidence of the following:

- Acceptance of the new grape variety;
- The validity of the name for identifying the grape variety;
- That the variety is used or will be used in winemaking; and
- That the variety is grown and used in the United States.

For the approval of names of new grape varieties, the petition may include:

- A reference to the publication of the name of the variety in a scientific or professional journal of horticulture or a published report by a professional, scientific or winegrowers' organization;
- A reference to a plant patent, if patented; and
- Information about the commercial potential of the variety, such as the acreage planted and its location or market studies.

Section 4.93 also places certain eligibility restrictions on the approval of grape variety names. A name will not be approved:

- If it has previously been used for a different grape variety;
- If it contains a term or name found to be misleading under § 4.39; or
- If a name of a new grape variety contains the term “Riesling.”

The Director reserves the authority to disapprove the name of a new grape variety developed in the United States if the name contains words of geographical significance, place names, or foreign words which are misleading under § 4.39.

2. Petitions*Petition for Albariño/Alvarinho*

Havens Wine Cellars in Napa, California, has petitioned ATF proposing the addition of the name

“Albariño” to the list of prime grape names approved for the designation of American wines. Albariño, a white *Vitis vinifera* grape, has been grown for centuries in Spain and Portugal, but is relatively new to the United States. In Portugal, the grape is known by the name “Alvarinho.”

The petitioners state that Albariño has long been recognized in Europe and in academic communities. As evidence of this, the petitioners submitted the following supporting documents provided by Professor Carole Meredith of the Viticulture and Enology Department at the University of California at Davis (UC Davis):

- European Union Regulation 3201/90: This regulation permits the use of the name “Albariño” on labels of Spanish wines, and the name “Alvarinho” on labels of Portuguese wines.

- Two scientific papers from the *American Journal of Enology and Viticulture*: “Effects of Grapevine Leafroll-Associated Virus 3 on the Physiology and Must of *Vitis vinifera* L. cv. Albariño Following Contamination in the Field,” published in Volume 50, 1999, discusses a study conducted on Albariño grape vines, and “Contribution of *Saccharomyces* and Non-*Saccharomyces* Populations to the Production of Some Components of Albariño Wine Aroma,” published in Volume 47, 1996, describes a study conducted on Albariño musts.

- “The Genetic Resources of *Vitis*”: This listing of international grape variety names and synonyms, published in 1988 by the German Federal Grape Breeding Institute, lists Alvarinho as the prime name for the grape varietal with Albariño as a synonym.

- An abstract for an article from the *Journal of the American Society for Horticultural Science*: “Molecular marker analysis of *Vitis vinifera* ‘Albariño’ and some similar grapevine cultivars,” published September 1998, describes a DNA analysis conducted on Albariño grapevines.

The petitioner also submitted several wine literature articles, from sources such as *Wine Spectator* and *Wine Today*, which mention Albariño/Alvarinho wine.

ATF contacted Professor Meredith and asked her if the name “Alvarinho” should be added to the list as a synonym of Albariño. She replied that both names are well established in Europe and are equally valid names for the grape. She stated that because the grape is relatively new to the U.S., she didn’t know which name is most commonly used by U.S. winemakers.

She noted that UC Davis has an example of the grapevine in its collection and uses the name "Alvarinho", most likely because the plant originally came from Portugal.

Havens Wine Cellar reports that it has 2½ acres of Albariño in production, with the first crop picked in 1999. They also presented evidence that at least two other California wineries are also growing Albariño. ATF knows of a Virginia winery that is also growing the grape. The petitioner comments that American consumers are looking for new and exciting varietals and Albariño fills this niche.

Based on the evidence presented by the petitioner, ATF proposes the addition of this grape to the list of American grape variety names. Since the evidence indicates that both names are equally valid, ATF proposes to add the names "Albariño" and "Alvarinho" to § 4.91 as prime names and as synonyms.

Petition for Black Corinth

Hallcrest Vineyards in Felton, California, has petitioned ATF to include the grape variety Black Corinth on the list of prime grape names approved for the designation of American wines. Black Corinth grapes are widely grown in California, where the vast majority of them are dried into raisins and marketed under the name "Zante Currant."

As evidence of the grape's acceptance and use in California, Hallcrest Vineyards submitted the following statistical reports issued by the State of California:

- Final Grape Crush Report for the 1999 crop, issued by the California Department of Food and Agriculture.
- California Grape Acreage report for 1999, issued by the California Agricultural Statistics Service, in cooperation with the U.S. Department of Agriculture.

Both reports include statistical tables with the data broken down by grape varietal, including Black Corinth. According to Table 2 of the Grape Acreage report, there were 2,384 standing acres of Black Corinth planted in California in 1999. The petitioner states these tables are clear evidence that the grape is grown in California and is recognized by the California Department of Food and Agriculture.

Other documentation of the grape includes The Oxford Companion to Wine (Jancis Robinson, Oxford University Press, 1999), which states that Black Corinth is one of the most commonly used grape varieties in the world raisin industry, and has on occasion been used in winemaking. The

Office International de la Vigne et du Vin, an international association for wine, officially recognizes the names "Black Corinth" and "Zante Currant" for the grape.

Hallcrest Vineyards states it has made a fruity, blush dessert wine from the Black Corinth grape. ATF is aware of at least one other winery using the grape to produce a table wine. Because the evidence satisfies the requirements of § 4.93, ATF proposes to add Black Corinth to the list of prime grape names in § 4.91. Because ATF feels that the name "Zante Currant" may mislead the consumer into thinking the wine is made from currants and not grapes, it is not proposing the name as a synonym. ATF, however, welcomes comments on this issue.

Petition for Fiano

United Distillers and Vintners North America, Inc. (UDV) has petitioned ATF for the addition of the name "Fiano" to the list of prime grape names approved for the designation of American wines. UDV owns three wineries in California—Beaulieu Vineyards, Glenn Ellen Carneros Winery, and Blossom Hill.

Fiano is a white varietal, long grown in the Campania region of Italy where it is used to produce the Denominazione di Origine Controllata wine Fiano di Avellino. According to information submitted by the petitioner, Fiano is an old grape with a history that can be traced back to the ancient Romans. An order for Fiano wine was placed in the register of the Holy Roman Emperor Frederick II (1215–1250), and Charles d'Anjou (1227–1285) was known to have planted 16,000 Fiano vines. Reference sources referring to the Fiano grape include The New Sotheby's Wine Encyclopedia (Tom Stevenson, DK Publishing, Inc., 1997) and The Oxford Companion to Wine (Jancis Robinson, Oxford University Press, 1999).

As evidence of the grape's use in the U.S., UDV has submitted a price list from Herrick Grapevines in St. Helena, California, listing Fiano in the grapevine inventory. According to this inventory, the Fiano was planted in 1997 and was obtained from Duarte Nursery in Modesto, California. UDV further states that Beaulieu Vineyard has produced two vintages of Fiano wine, and it has submitted evidence that at least three other California vineyards and one New York vineyard are also growing Fiano. The petitioner submitted a letter from Monterey Pacific, one of the California growers, stating that they've had five years of experience with Fiano, and find it to be a grape with distinctive varietal character.

Based on the evidence presented in the petition, ATF is proposing the Fiano grape for inclusion in § 4.91.

3. Public Participation

Who May Comment on This Notice?

ATF requests comments from all interested parties. We will carefully consider all comments we receive on or before the closing date. We will also carefully consider comments we receive after that date if it is practical to do so, but we cannot assure consideration for late comments. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand.

Can I Review Comments Received?

Copies of the petitions and written comments in response to this notice of proposed rulemaking will be available for public inspection during normal business hours at: ATF Reference Library, Office of Liaison and Public Information, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Will ATF Keep My Comments Confidential?

ATF cannot recognize any material in comments as confidential. All comments and materials may be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, you should not include it in the comments. We may also disclose the name of any person who submits a comment. A copy of this notice and all comments will be available for public inspection during normal business hours at: ATF Reference Library, Office of Liaison and Public Information, Room 6300, 650 Massachusetts Avenue, NW., Washington, DC 20226.

How do I Send Facsimile Comments?

You may submit comments of not more than three pages by facsimile transmission to (202) 927-8525.

Facsimile comments must:

- Be legible.
- Reference this notice number.
- Be 8½" × 11" in size.
- Contain a legible written signature.
- Be not more than three pages.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

How Do I Send Electronic Mail (E-mail) Comments?

You may submit comments by e-mail by sending the comments to nprm@atfhq.atf.treas.gov. You must follow these instructions. E-mail comments must:

- Contain your name, mailing address, and e-mail address.
- Reference this notice number.
- Be legible when printed on not more than three pages size.

We will not acknowledge receipt of e-mail. We will treat e-mail as originals.

How Do I Send Comments to the ATF Internet Web Site?

You may also submit comments using the comment form provided with the online copy of the proposed rule on the ATF Internet web site at <http://www.atf.treas.gov/alcohol/rules/index.htm>.

3. Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation will permit the use of new grape varietal names. No negative impact on small entities is expected. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

This is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

4. Drafting Information

The principal author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

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

Authority and Issuance

Accordingly, 27 CFR part 4, Labeling and Advertising of Wine, is amended as follows:

PART 4—[AMENDED]

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Para. 2. Section 4.91 is amended by republishing the introductory text and by adding the names “Albariño”, “Alvarinho”, “Black Corinth”, and “Fiano” in alphabetical order, to the list of prime grape names, to read as follows:

§ 4.91 List of approved prime names.

The following grape variety names have been approved by the Director for use as type designations for American wines. When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime name. Grape variety names may appear on labels of wine in upper or in lower case, and may be spelled with or without the hyphens or diacritic marks indicated in the following list.

Albariño (Alvarinho)

* * * * *

Alvarinho (Albariño)

* * * * *

Black Corinth

* * * * *

Fiano

* * * * *

Signed: May 24, 2001.

Bradley A. Buckles,
Director.

Approved: June 22, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary
(Regulatory, Tariff & Trade Enforcement).
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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC-82

Oil and Gas and Sulphur Operations in the Outer Continental Shelf— Document Incorporated by Reference—American Petroleum Institute's Specification 2C for Offshore Cranes

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to incorporate by reference the Fifth Edition of the American Petroleum Institute's Specification for Offshore Cranes (API Spec 2C) into its

regulations. MMS is proposing this action to establish a minimum design standard for new cranes installed on fixed platforms on the Outer Continental Shelf (OCS) and to require all existing cranes installed on OCS fixed platforms to be equipped with anti-two block safety devices. This proposed rule would ensure that OCS lessees use the best available and safest technologies for the design and construction of cranes used on the OCS. **DATES:** We will consider all comments we receive by October 17, 2001. We will begin reviewing comments then and may not fully consider comments we receive after October 17, 2001.

ADDRESSES: Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Rules Processing Team (RPT). If you wish to e-mail comments, the RPT's e-mail address is: rules.comments@mms.gov. Reference API Spec 2C in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010-NEW); 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wilbon Rhome, Industrial Specialist, Operations Analysis Branch, at (703) 787-1587 or Fax (703) 787-1555.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry as a means of establishing requirements for activities on the OCS. This practice, known as incorporation by reference, allows us to incorporate the provisions of technical standards into the regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued regulation, then has the force and effect of law. We hold operators/lessees accountable for complying with the documents incorporated by reference in our regulations. We currently incorporate by reference 85 private sector consensus standards into the offshore operating regulations.

The regulations at 1 CFR part 51 govern how we and other Federal