

COMMENTS FILED—Continued

[Docket No. RM96-1-019]

Commenter	Abbreviation
Xcel Energy Services, Inc	Xcel.

[FR Doc. 02-6239 Filed 3-15-02; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF-475; Ref. Notice No. 924]

RIN: 1512-AC29

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

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

ACTION: Treasury decision, final rule.

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

EFFECTIVE DATE: Effective May 17, 2002.

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) 434-8039.

SUPPLEMENTARY INFORMATION:

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 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 at least 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 the percentage of the wine derived from each 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 determined to be appropriate for use in designating American wines. The list of prime grape names and their synonyms appears at § 4.91, while alternative grape names temporarily authorized for use are listed at § 4.92. We believe the listing of approved grape variety names for American wines will help standardize wine label terminology and prevent consumer confusion.

How May New Varieties Be Added to the List of Prime Grape Names?

Under § 4.93, any interested person may petition ATF to add additional grape varieties to the list of prime grape names. The petitioner should provide evidence of the following:

- Acceptance of the 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.
- Documentation submitted with the petition may include:
- A reference to the publication of the variety's name 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 names. We will not approve a name:

- 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 will not approve 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.

Notice 924

In Notice 924, published on July 19, 2001, ATF proposed to add the names Albariño, Alvarinho, Black Corinth, and Fiano to the list of approved grape variety names in § 4.91. We based the proposal on the petitions and evidence described below. We received no comments to the notice. Because the petitioners provided sufficient evidence to support the requirements of § 4.93, we are adding the new names to the approved list.

Petitions

Petition for Albariño/Alvarinho

Havens Wine Cellars of Napa, California, petitioned ATF to add "Albariño" to the list of prime grape names approved for the designation of American wines. Grown for centuries in Spain and Portugal, Albariño, a white *Vitis vinifera* grape, is relatively new to the United States. In Portugal the grape is called "Alvarinho."

The petitioners stated 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 published in 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," (Vol. 50, 1999) which 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," (Vol. 47, 1996) which 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 of 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, describing 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 reported that it has 2½ acres of Albariño in production, with the first crop picked in 1999. We also know of two other California wineries and a Virginia winery that are growing Albariño. Since the evidence submitted satisfies the requirements of § 4.93, we are adding Albariño and Alvarinho to the list of prime grape names in § 4.91.

Petition for Black Corinth

Hallcrest Vineyards of Felton, California, petitioned ATF to add the grape variety Black Corinth to 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. Black Corinth is one of the listed varieties. The petitioner stated

that this is clear evidence that the grape is grown in California and is recognized by the California Department of Food and Agriculture.

Other documentation included 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 is occasionally used in winemaking.

Hallcrest Vineyards stated it has made a fruity, blush dessert wine from the Black Corinth grape. We are aware of at least one other winery using the grape to produce a table wine. Because the evidence satisfies the requirements of § 4.93, we are adding Black Corinth to the list of prime grape names in § 4.91. Because we believe the name "Zante Currant" could mislead consumers into thinking the wine is made from currants and not grapes, we did not propose that name as a synonym.

Petition for Fiano

United Distillers and Vintners North America, Inc. (UDV) petitioned ATF to add 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 dating back to the ancient Romans. Records show that Holy Roman Emperor Frederick II (1215–1250) placed an order for Fiano wine and that Charles d'Anjou (1227–1285) planted 16,000 Fiano vines. Modern 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 United States, UDV submitted a price list from Herrick Grapevines in St. Helena, California, listing Fiano in its grapevine inventory. According to this inventory, the Fiano was planted in 1997 and was obtained from Duarte Nursery in Modesto, California. UDV further stated that Beaulieu Vineyard has produced two vintages of Fiano wine, and 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

have 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, we are adding the Fiano grape to the list of approved prime names in § 4.91.

Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Final 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 rule. This rule does not require winemakers to collect any additional information.

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

We certify that this final 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. We do not expect any negative impact on small entities. We are not imposing new requirements. Accordingly, the act does not require a regulatory flexibility analysis.

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, the order does not require a regulatory assessment.

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, Consumer protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

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

PART 4—LABELING AND ADVERTISING OF WINE

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 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.

* * * * *

Albariño (Alvarinho)

* * * * *

Alvarinho (Albariño)

* * * * *

Black Corinth

* * * * *

Fiano

* * * * *

Signed: February 14, 2002.

Bradley A. Buckles,

Director.

Approved: February 24, 2002.

Timothy E. Skud,

*Acting Deputy Assistant Secretary,
(Regulatory, Tariff & Trade Enforcement).*

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DEPARTMENT OF TRANSPORTATION
Coast Guard
33 CFR Part 117

[CGD05-02-006]

**Drawbridge Operation Regulations;
Great Egg Harbor Bay, New Jersey**

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Route 9/Beesleys Point Bridge across Great Egg Harbor Bay, mile 3.5, between Somers Point and Beesleys Point, in New Jersey. From March 11, 2002, through April 5, 2002, the bridge may remain in the closed position Monday through Friday from 7 a.m. to 5 p.m. However, on Saturday and Sunday the bridge will open on signal for marine traffic. This closure is necessary to conduct the emergency structural repairs to the bascule span.

DATES: This deviation is effective from 7 a.m. on March 11, 2002, until 5 p.m. on April 5, 2002.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION: The Coast Guard received a letter from the bridge manager, requesting a temporary deviation from the current operating schedule of the Route 9/Beesleys Point Bridge to undertake repairs. The draw currently is required to open on signal at all times. This requirement is included in the general operating

regulations at 33 CFR 117.5. The work involves ironwork repairs to the bascule span of the bridge. To facilitate the repairs, the bascule span will be locked in the closed position so that concrete can undergo the curing process. This work requires completely immobilizing the operation of the bascule span. In the event of an emergency, openings of the span will be provided as quickly as possible, but may take up to 48 hours to accomplish. Requests for emergency openings can be made by calling the bridge manager at (609) 390-3190 or (609) 624-0949.

In accordance with 33 CFR 117.35, the District Commander approved the contractor's request for a temporary deviation from the governing regulations in a letter dated February 22, 2002.

The Coast Guard has informed the known commercial users of the waterway of the bridge closure so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

The temporary deviation allows the Route 9/Beesleys Point Bridge across Great Egg Harbor, mile 3.5, between Somers Point and Beesleys Point, New Jersey to remain closed Monday through Friday from 7 a.m. on March 11, 2002, until 5 p.m. on April 5, 2002.

Dated: March 6, 2002.

Ann B. Deaton,

Chief, Bridge Administration Section, Fifth Coast Guard District.

[FR Doc. 02-6358 Filed 3-15-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION
Coast Guard
33 CFR Part 117

[CGD07-02-009]

**Drawbridge Operation Regulations:
Commercial Boulevard Bridge (SR
870), Atlantic Intracoastal Waterway,
Mile 1059.0, Lauderdale-by-the-Sea,
Broward County, FL**

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations, request for comments.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a test deviation from the regulations governing the operation of the Commercial Boulevard (SR 870) bridge at Lauderdale-by-the-Sea across the Atlantic Intracoastal Waterway, mile 1059.0 in Lauderdale-by-the-Sea, Florida. This deviation allows the drawbridge to open on the hour, 20

minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. This action is intended to improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic. Comments on this test deviation are encouraged.

DATES: This rule is effective from April 17, 2002, until July 16, 2002.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131. Comments and material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07-02-009] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Branch at (305) 415-6743.

SUPPLEMENTARY INFORMATION:
Request for Comments

We encourage you to comment on this test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this notice [CGD07-02-009], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid in the Discussion of the Test Schedule, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Discussion of the Test Schedule

The existing regulations of the Commercial Boulevard bridge (SR 870), mile 1059.0, at Lauderdale-by-the-Sea allow the draw to open on signal, except that, from November 1 through May 15