

payment of certain immigrant visa fees, published in the **Federal Register** of September 8, 2000 (65 FR 54412).

**DATES:** Effective December 14, 2000, 22 CFR 42.71(b) is stayed until January 1, 2001, and § 42.71(c) is added until January 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, (202) 663-1204, e-mail *odomhe@state.gov*, or fax at (202) 663-3898.

**SUPPLEMENTARY INFORMATION:** On September 8, 2000, (65 FR 54412-12) the Department published a rule which, among other things, changed the procedure for and the timing of the payment of the application processing fee by immigrant visa applicants at certain consular posts. At the time the rule was sent to the **Federal Register** it was intended to be effective upon publication. For technical reasons, it could not be implemented as intended on the date published in the **Federal Register**.

**List of Subjects in 22 CFR Part 42**

Aliens, Immigrants, Passports and visas.

22 CFR Part 42 is amended as follows:

**PART 42—VISAS; DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

1. The authority citation for Part 42 continues to read:

**Authority:** 8 U.S.C. 1104.

2. In § 42.71 stay paragraph (b) until January 1, 2001, and add paragraph (c) until that date to read as follows:

**§ 42.71 Authority to issue visas; visa fees.**

\* \* \* \* \*

(c) Immigrant visa fees. Fees are prescribed by the Secretary of State for the execution of an application for, and the issuance of, an immigrant visa. The application fee shall be collected prior to the visa interview and execution of the application. The issuance fee shall be collected after completion of the visa interview and prior to issuance of the visa. A fee receipt shall be issued for each fee. A fee collected for the application for or issuance of an immigrant visa is refundable only if the principal officer at a post or the officer in charge of a consular section determines that the visa was issued in error or could not be used as a result of action by the U.S. Government over which the alien had no control and for which the alien was not responsible.

Dated: November 28, 2000.

**Maura Harty,**

*Acting Assistant Secretary for Consular Affairs.*

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**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 4**

[T.D. ATF-433; Ref. Notice No. 883]

**RIN 1512-AC03**

**Addition of a New Grape Variety Name for American Wines (99R-142P)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Treasury decision, final rule.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is adding a new name, "Dornfelder", to the list of prime grape variety names for use in designating American wines. Dornfelder is a red variety, developed in Germany in 1955, currently grown commercially in the United States.

**EFFECTIVE DATE:** Effective February 12, 2001.

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

**SUPPLEMENTARY INFORMATION:**

**1. Background on Grape Variety Names**

Under 27 CFR 4.23(b), 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 some circumstances) is derived from that grape variety. The wine must also be labeled with an appellation of origin. Under § 4.23(d), a bottler may use two or more grape variety names as the designation of a wine if all varieties are listed on the brand label and 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.

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

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;
- Information that the variety is used or will be used in winemaking; and
- Information 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 or market studies.

Section 4.93 also places certain restrictions on grape names that will be approved. 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 grape variety developed in the United States if the name contains words of geographical significance, place names, or foreign words that are misleading under § 4.39.

**2. Dornfelder Rulemaking**

**Petition**

ATF received a petition proposing to add the name "Dornfelder" to the list of prime grape variety names approved for the designation of American wines. Mr. John Weygandt and Ms. Alice Weygandt of Stargazers Vineyard in Coatesville, Pennsylvania, submitted the petition.

According to information submitted by the petitioners, Dornfelder is a red variety, developed in Germany in 1955. It is a crossing of Helfenstein (a crossing of Fruhburgunder and Trollinger) and Heroldrebe (a crossing of Portugieser and Limberger). According to Jancis Robinson's *Vines, Grapes and Wines* (First American Edition 1986), Dornfelder is \* \* \* perhaps Germany's most promising 'new' red crossing." The name "Dornfelder" is derived from Imanuel Dornfeld, founding father of the Wurttemberg viticultural school during

the mid-19th century. "Dornfelder" was approved as a varietal name under German wine regulations in 1980.

In the United States, the breeders have obtained plant variety protection through the Plant Variety Protection Act, 7 U.S.C. Chapter 57, until 2009. The petitioners planted 600 vines of this variety in 1997, which will bear a commercial crop in 2000. In addition, three other growers in the states of Virginia, Pennsylvania, and Michigan have planted this variety. Dornfelder plants have been offered for sale by American Nursery, located in California and Virginia, since 1996.

Notice No. 883

In Notice 883, published March 9, 2000, ATF proposed to add the name "Dornfelder" to the list of approved prime names in § 4.91. No comments were received. Because sufficient evidence was provided to satisfy the requirements under § 4.93, ATF is amending § 4.91 to include "Dornfelder" in the list of approved prime names for grape varieties.

### 3. 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 notice because no requirement to collect information is proposed.

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

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will permit the use of the grape varietal name Dornfelder. 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, Consumer Protection, Customs duties and inspections,

Imports, Labeling, Packaging and containers, and Wine.

### Authority and Issuance

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

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

**Authority:** 27 U.S.C. 205.

**Par. 2.** Section 4.91 is amended by adding the name "Dornfelder," in alphabetical order, to the list of prime grape names, to read as follows:

#### § 4.91 List of approved prime names.

\* \* \* \* \*

*Dornfelder*

\* \* \* \* \*

**Bradley A. Buckles,**  
*Director.*

Approved: August 11, 2000.

**John P. Simpson,**  
*Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).*  
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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[T.D. ATF-434; Re: Notice No. 874]

RIN 1512-AA07

#### Applegate Valley Viticultural Area [99R-112P]

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is establishing a viticultural area located within the State of Oregon, to be known as "Applegate Valley." The petition for this viticultural area was filed by Mr. Barnard E. Smith, President, The Academy of Wine of Oregon Inc. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

**EFFECTIVE DATE:** February 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Tim DeVaney, Regulations Division, (202-

927-8210), Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

### SUPPLEMENTARY INFORMATION:

#### Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas (AVAs). The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692), which added a new part 9 to 27 CFR, providing for the listing of approved AVAs. Section 4.25a(e)(1), title 27, CFR, defines an AVA as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an AVA. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

#### Petition

ATF has received a petition from Mr. Barnard E. Smith, President, The Academy of Wine of Oregon Inc., proposing to establish a viticultural area within the State of Oregon, to be known as "Applegate Valley." The viticultural area is located entirely within the Rogue Valley AVA. The viticultural area is in Josephine and Jackson Counties. Mr. Smith believes that Applegate Valley is a widely known name for the petitioned area, that the area is well defined, and