

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 883]
RIN: 1512-AC03

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

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, and Firearms has received a petition proposing to add 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.

DATES: Written comments must be received by May 8, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; Notice No. 883.

A copy of the petition 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 6300, 650 Massachusetts Avenue, NW, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Berry, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927-8206.

SUPPLEMENTARY INFORMATION:

1. Background

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. 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.

ATF has received a petition proposing that a new grape variety name 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;
- 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;

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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 which 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 which are misleading under § 4.39.

2. Dornfelder Petition

ATF has 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 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.

Based on the evidence presented in the petition, ATF is proposing Dornfelder as a grape variety 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.

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 8 ½" x 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.notice883@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 8 ½" x 11" in 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/core/regulations/rules.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 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

This notice was written by Tom Busey and Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects 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 name "Dornfelder", in alphabetical order, to the list of prime grape names, to read as follows:

§ 4.91 List of approved prime names.

* * * * *

Dornfelder

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Signed: December 15, 1999.

John W. Magaw,

Director.

Approved: January 21, 2000.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement)

[FR Doc. 00-5769 Filed 3-8-00; 8:45 am]

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