

distributions made on or before January 4, 2001, if the distribution is made as part of a transaction described in, or substantially similar to, the transaction in Notice 99-59 (1999-2 C.B. 761), including transactions designed to reduce gain (see § 601.601(d)(2) of this chapter). For rules for distributions on or before January 4, 2001 (other than distributions on or before that date to which this paragraph (g) applies), see rules in effect on January 4, 2001 (see § 1.301-1(g) as contained in 26 CFR part 1 revised April 1, 2001).

* * * * *

§ 1.301-1T [Removed]

Par. 3. Section 1.301-1T is removed.

Approved: September 17, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark A. Weinberger,

Assistant Secretary of the Treasury for Tax Policy.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF-466; Re: Notice No. 915]

RIN 1512-AC26

Addition of New Grape Variety Names for American Wines (2000R-307P)

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 two new names, "Counoise" and "St. Laurent," to the list of prime grape variety names for use in designating American wines.

EFFECTIVE DATE: Effective November 26, 2001.

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 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 circumstances detailed in § 4.23(c)) 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 grapes used to make the wine are the labeled varieties;
- The percentage of the wine derived from each grape variety is shown on the label; and
- If labeled with multiple appellations, the percentage of the wine derived from each varietal from each appellation 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 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 grape variety name will not be approved:

- If the name has previously been used for a different grape variety;
- If the name contains a term or name found to be misleading under § 4.39; or
- If the 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. The Director will not

approve the use of a grape variety name that is misleading.

2. Rulemaking

Counoise Petition

Tablas Creek Vineyard in Paso Robles, California, petitioned ATF proposing the addition of the name "Counoise" to the list of prime grape variety names approved for the designation of American wines. Counoise is a red varietal originally from the Rhône region of France, where it has traditionally been a component of Châteauneuf-du-Pape.

The petitioner submitted the following published references to Counoise to establish its acceptance as a grape and the validity of its name:

- *Cépages et Vignobles de France*, Volume II, by Pierre Galet, 1990, pp. 106-107.
- *Catalogue of Selected Wine Grape Varieties and Clones Cultivated in France*, published by the French Ministry of Agriculture, Fisheries and Food, 1997, pp. 67 & 216.
- *Traité General de Viticulture Ampelographie*, Volume II, by P. Viala and V. Vermoral, 1991, pp. 78-80.
- *Guide to Wine Grapes*, Oxford University Press, 1996, by Jancis Robinson, p. 61.

The first three references are scientific articles that discuss the grape's origin, cultivation, and ampelography (the study and classification of grapevines). The *Guide to Wine Grapes*, intended for the general reader, discusses the cultivation of Counoise in the Rhône region and notes that it is "one of the more rarefied ingredients in red Châteauneuf-du-Pape."

Tablas Creek Vineyard stated that it imported the Counoise plant into the USDA station in Geneva, New York, in 1990. The plant was declared virus free in 1993 and shipped bare-root to Tablas Creek Vineyard in Paso Robles, California in February 1993. The winery multiplied, grafted and started planting Counoise in 1996.

The petitioner stated that the Counoise grape is currently grown and used in the United States in winemaking. It reported that in 1999 and 2000, it shipped several orders for Counoise grafted vines, own-root plants and budwood to vineyards in California, Washington, and Arizona. When ATF contacted some of these vineyards, they reported that the plants are doing well and that they plan to produce wine from the resulting grapes.

In addition, the petitioner stated that Counoise has enormous commercial potential in California. The variety is easy to graft and moderately vigorous. It

is well adapted to most California regions, ripening fairly late in the cycle, after Grenâche but before Mourvèdre and Cabernet Sauvignon. Tablas Creek has had three crops off their 3.5 acre planting. The winery reported that the 1998 harvest had a brix of 23.6 with a pH of 3.4, while the 1999 harvest had a brix of 26.9 with a pH of 3.4. The petitioner further stated that the wine is well-colored and rich, with excellent aromatics and spice.

St. Laurent Petition

Mr. Robin Partch of Northern Vineyards Winery in Stillwater, Minnesota, petitioned ATF for the addition of the name "St. Laurent" to the list of prime grape variety names approved for the designation of American wines. St. Laurent is a red *Vitis vinifera* grape originally from France, but now grown mainly in central Europe, especially Austria.

The petitioner submitted several published references to St. Laurent as evidence of its acceptance and name validity, including the following:

- The Oxford Companion to Wine, 1st edition, edited by Jancis Robinson, 1994, pp. 839–840.
- Production of Grapes and Wine in Cool Climates, by David Jackson and Danny Schuster, 1994, pp. 105–106.
- Vines, Grapes and Wines, by Jancis Robinson, 1986, p. 221. According to these references, St. Laurent is a deeply colored grape with a thick skin, which makes it disease resistant. It buds early and is thus susceptible to spring frosts, but it also ripens early.

The petitioner offered the following evidence that the St. Laurent grape is grown and used in the U.S. for winemaking. According to the petitioner, one commercial grower in Minnesota, a member of the Minnesota Winegrowers Cooperative, planted about ¼ an acre of St. Laurent in 1995. The petitioner has made wine from the 1999 crop and is pleased with the results. The grower reported that the grape's disease-resistance and tendency to ripen early make it suitable for cooler climates with a short growing season.

The petitioner reported that St. Laurent plants are also being grown in the collection of the University of Minnesota. This was confirmed by Peter Hemstad, a research viticulturist at the University's Horticulture Research Center, who reported that he has made a good quality red wine from the University's grapes. Mr. Hemstad stated that he expects St. Laurent to become more widely planted in the U.S., especially in cooler climates. He further stated that he would recommend St. Laurent to growers in cooler climate

states such as Minnesota, Michigan, and New York.

Notice No. 915

Based on the evidence submitted by the petitioners, ATF published Notice 915 on April 17, 2001, proposing to add the names "Counoise" and "St. Laurent" to the list of approved names in § 4.91. ATF received two comments in response to the notice. One was from the vineyard manager of the Viticulture and Enology Department at the University of California at Davis, who noted that Counoise has been in the university's collections since 1975. The other comment, from a London wine merchant, discussed the marketability of Counoise and St. Laurent wines in the export market.

After reviewing the evidence and comments, ATF has decided that sufficient evidence has been provided to satisfy the requirements under § 4.93. ATF is therefore amending § 4.91 to include the names "Counoise" and "St. Laurent."

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 final rule because no requirement to collect information is imposed.

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 names "Counoise" and "St. Laurent." 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, 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 republishing the introductory text and adding the names "Counoise" and "St. Laurent," 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.

*	*	*	*	*
	<i>Counoise</i>			
*	*	*	*	*
	<i>St. Laurent</i>			
*	*	*	*	*

July 11, 2001.

Bradley A. Buckles,
Director.

Approved: August 23, 2001.

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

Coast Guard

33 CFR Parts 110 and 165

[CGD01–01–162]

RIN 2115–AA84, 2115–AA97, and 2115–AA98

Anchorage, Regulated Navigation Areas, Safety and Security Zones; Boston Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary Regulated Navigation Areas (RNAs) and one