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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 2004N-0214]

Public Information Regulations; Withdrawal

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) published in the *Federal Register* of September 2, 2004, a direct final rule to incorporate exemptions one, two, and three of the Freedom of Information Act (FOIA) into FDA's public information regulations. The purpose was to implement more comprehensively the exemptions contained in FOIA. The comment period closed November 16, 2004. FDA is withdrawing the direct final rule because the agency received significant adverse comment.

DATES: The direct final rule published at 69 FR 53615 (September 2, 2004), is withdrawn as of January 13, 2005.

FOR FURTHER INFORMATION CONTACT: Betty B. Dorsey, Division of Freedom of Information (HFI-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6567.

Authority: Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the direct final rule published on September 2, 2004 (69 FR 53615), is withdrawn.

Dated: January 11, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05-955 Filed 1-13-05; 9:55 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4 and 24

[T.D. TTB-23; Ref. Notice No. 13]

RIN 1513-AC21

Production of Dried Fruit and Honey Wines (2001R-136P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Treasury decision; final rule.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) makes two amendments to its regulations in response to two petitions submitted by producers of raisin and honey wines. One amendment allows the production of dried fruit wines with an alcohol by volume content of more than 14 percent. The other amendment lowers the minimum starting Brix of 22 degrees to 13 degrees in the production of honey wines. In addition, TTB corrects a technical error in the wine labeling regulations by raising the maximum limit on alcohol content derived from fermentation from 13 to 14 percent for ameliorated agricultural wines.

EFFECTIVE DATE: March 21, 2005.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry of the Alcohol and Tobacco Tax and Trade Bureau, Regulations and Procedures Division, at P.O. Box 18152, Roanoke, VA 24014; or telephone (540) 344-9333.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 5387 of the Internal Revenue Code of 1986 (IRC), 26 U.S.C. 5387, provides that wines made from agricultural products other than the juice of fruit must be made "in accordance with good commercial practice" as may be prescribed by the Secretary of the Treasury by regulation. Under this statutory provision, wines made according to those regulations are classed as "'standard agricultural wines.'" However, § 5387 precludes the following production processes:

- The addition of wine spirits to agricultural wines;
- The addition of coloring or flavoring materials to agricultural wines,

with the exception of the addition of hops to honey wine; or

- The blending of wines from different agricultural commodities.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the administration of the IRC provisions that relate to alcohol beverages, including wine. Part 24 of the TTB regulations (27 CFR part 24) addresses the IRC provisions pertaining to wine and contains, in subpart I, Production of Agricultural Wine, regulations that implement the provisions of IRC § 5387.

Requirements

Subpart I concerns the production of agricultural wines. Sections 24.202 and 24.203 specifically address dried fruit wine and honey wine, respectively, and § 24.204 addresses requirements for all agricultural wines other than dried fruit and honey wines. These sections prohibit the production of any agricultural wine with an alcohol content of more than 14 percent by volume following complete fermentation or complete fermentation and sweetening. The IRC does not specify this limitation, which has been in the regulations since 1954. Rather, the limitation derives from the law's "good commercial practice" standard.

Sections 24.202, 24.203, and 24.204 also contain limits on degrees Brix prior to fermentation for agricultural wines. Brix is the quantity of dissolved solids in a wine expressed as grams of sucrose in 100 grams of solution at 60 degrees Fahrenheit, that is, the percent of sugar by weight stated in degrees. The regulations permit the addition of water during the production of agricultural wines, to facilitate fermentation, as long as the density of the fermenting mixture is not reduced below 22 degrees Brix. The 22 degree limit, like that on alcohol content discussed above, was placed in the wine regulations in 1954 and is based on "good commercial practice" standards and not on specific statutory language.

Petitions

Dried Fruit Wine Petition

Bruno and George Wines, Inc., of Beaumont, Texas, petitioned TTB to amend § 24.202 to allow for the production of a standard dried fruit wine that contains more than 14 percent alcohol by volume. Because of the current prohibition in § 24.202 against