

requirements, Social security, Unemployment compensation.

### Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-142686-01) that was published in the **Federal Register** on November 14, 2001 (66 FR 57023) is withdrawn.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-12956 Filed 6-30-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 4

[Notice No. 49]

RIN 1513-AB11

#### Proposed Change to Vintage Date Requirements (2005R-212P)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to change the minimum content requirement for vintage date statements on some wine labels. We take this action in response to a petition from a trade association representing California wineries. We invite comments on this proposed amendment to our regulations.

**DATES:** We must receive your written comments on or before August 30, 2005.

**ADDRESSES:** You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 49, P.O. Box 14412, Washington, DC 20044-4412.
- 202-927-8525 (facsimile).
- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).
- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.
- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of the petition, this notice, and any comments we receive about this notice by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the

petition, notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

#### FOR FURTHER INFORMATION CONTACT:

Marjorie D. Ruhf, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Washington, DC 20220; telephone 202-927-8202.

#### SUPPLEMENTARY INFORMATION:

##### Background on Wine Labeling

###### *TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

##### Vintage Date Requirements

###### *Current Requirements*

Part 4 of the TTB regulations (27 CFR part 4) contains the rules governing labeling of wine. The current rule for the use of a vintage date on a wine label is found in § 4.27 (27 CFR 4.27). Section 4.27 requires that 95 percent of the grapes in a vintage-dated wine be harvested in the calendar year shown on the label and that the wine be labeled with an appellation of origin other than a country.

Before 1972, regulations in part 4 defined the phrase “vintage wine” as wine that was made “wholly from grapes gathered in the same calendar year and grown and fermented in the same viticultural area, and conforming to the standards prescribed in Classes 1, 2, and 3 of § 4.21.” In T.D. 7185 (37 FR 7974), published on April 22, 1972, the Internal Revenue Service (IRS), which administered the FAA Act at the time, amended that definition to allow the addition of up to five percent of other wines to vintage wine. An industry association had requested this change in order to allow producers to replace wine lost by evaporation and leakage during the aging period. In adopting the change, the IRS recognized that requiring vintage wine to be derived wholly from grapes gathered in the stated year was “unnecessarily

restrictive when viewed in the light of practices in some of the principal wine producing countries of the world.” The IRS also concluded that liberalization of the vintage date regulations “would not be adverse to the consumer interest.”

###### *Vintage Date Petition*

The Wine Institute, a trade association of California wineries, submitted a petition to TTB to amend paragraph (a) of § 4.27 to allow wine labeled with a State, multistate, county, or multicounty appellation of origin (or the foreign equivalent of a State or county) to bear a vintage date if at least 85 percent of the wine is derived from grapes harvested in the labeled calendar year. The Wine Institute proposes to retain the current requirement that at least 95 percent of the grapes in a vintage-dated wine be harvested in the year shown on the label (the “95 percent rule”) for wine with an American viticultural area (or its foreign equivalent) as an appellation of origin. An American viticultural area is a delimited grape growing region approved by TTB that is distinguishable by geographical features; the American viticultural areas are listed in part 9 of the TTB regulations (27 CFR part 9). A foreign equivalent of an American viticultural area is a delimited place or region, other than a political subdivision, which has been established by the country of origin.

In support of its request, the petitioner provided information comparing the vintage date labeling requirement of the United States to those of other wine producing countries. This information shows that the 95 percent rule for vintage wine used by the United States is unusually high when compared to the vintage date requirements of other countries. Specifically, the petitioner notes that Australia, New Zealand, and the Member States of the European Union have an 85 percent same-year content requirement for vintage-dated wine, while Chile and South Africa require that only 75 percent of the grapes in a vintage-dated wine be grown in the year shown on the label. The petitioner did not provide information on precedents for their proposed dual standard for vintage labeling of wine from viticultural areas and other appellations of origin. We note, however, that the TTB appellation of origin regulations use a multiple standard for the percentage of grapes that must be grown in the labeled appellation, that is, 85 percent for a wine labeled with a viticultural area appellation, 75 percent for single State or county appellations,

or 100 percent for multistate or multicounty appellations.

The petitioner argues that the current 95 percent rule for vintage wine, as set forth in § 4.27, places U.S. wine producers at a competitive disadvantage in two principal ways:

- The ability of domestic producers to blend wines for the best possible characteristics is limited by the 95 percent rule. The petitioner claims this is most important in “mid-range wines, where consistency of flavor and mouthfeel is desirable between years and where a large proportion of the global wine market exists.” In support of this point, the petitioner provided several examples of the use of small amounts of wine from a different vintage to give consistency and better value to consumers.

- Although the 95 percent rule applies equally to foreign vintage wines imported into the United States, regulators in the United States do not have access to the records of foreign producers to verify that they follow the 95 percent rule for wines they export to the United States. The petitioner suggests that domestic producers of vintage wine may be competing with foreign producers that do not conform to the 95 percent standard.

#### Proposed Regulatory Amendment

In this notice, TTB proposes to revise paragraph (a) of § 4.27 in order to add the 85 percent standard as proposed in the petition. The proposed revision includes a reorganization of the text in order to accommodate the separate 85 and 95 percent vintage date rules.

#### Public Participation

##### Comments Invited

We invite comments from interested members of the public on whether we should make the proposed change to the vintage date rules. We specifically invite comments on whether the proposed amendment will continue to ensure that consumers have adequate information about the identity of wines that are labeled with vintage dates, and are not misled by the use of vintage dates on wine labels. We are also interested in comments on the perceived effect on consumers of using two vintage date standards rather than the current single standard approach. In addition to comments on this specific proposal, we are interested in suggestions on other approaches that might achieve a similar result. We also invite comments on an appropriate delayed effective date. Finally we solicit comments on how any new rule should be applied. For example, should it apply to wines

bottled after the effective date, or wines removed for consumption or sale after the effective date? Please provide specific information in support of your comments.

#### Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- **Mail:** You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- **Facsimile:** You may submit comments by facsimile transmission to 202-927-8525. Faxed comments must—
  - (1) Be on 8.5 by 11 inch paper;
  - (2) Contain a legible, written signature; and
  - (3) Be no more than five pages long.

This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- **E-mail:** You may e-mail comments to [nprm@ttb.gov](mailto:nprm@ttb.gov). Comments transmitted by electronic mail must—

- (1) Contain your e-mail address;
- (2) Reference this notice number on the subject line; and
- (3) Be legible when printed on 8.5 by 11 inch paper.

- **Online form:** We provide a comment form with the online copy of this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “Send comments via e-mail” link under this notice number.

- **Federal e-rulemaking portal:** To submit comments to us via the Federal e rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

#### Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

#### Public Disclosure

You may view copies of the petition, this notice, and any comments we receive by appointment at the TTB

Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 × 11 inch page. Contact our librarian at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post the petition, this notice, and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copies of the petition, this notice, and the posted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the “View Comments” link under this notice number to view the posted comments.

#### Regulatory Flexibility Act

We certify that this proposed amendment, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendment provides greater flexibility to wine producers and importers without imposing any new reporting, recordkeeping, or other administrative requirement. Therefore, no regulatory flexibility analysis is required.

#### Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### Drafting Information

Marjorie D. Ruhf of the Regulations and Procedures Division drafted this notice.

#### List of Subjects in 27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

#### The Proposed Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 4, as follows:

#### PART 4—LABELING AND ADVERTISING OF WINE

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

**Authority:** 27 U.S.C. 205, unless otherwise noted.

2. Amend § 4.27 by revising paragraph (a) to read as follows:

**§ 4.27 Vintage wine.**

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or 3 of § 4.21. The wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation must be shown in direct conjunction with the designation required by § 4.32(a)(2), in lettering substantially as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date. The following additional rules apply to vintage labeling:

(1) If an American or imported wine is labeled with a viticultural area appellation of origin, at least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year; or

(2) If an American or imported wine is labeled with an appellation of origin other than a country or viticultural area, at least 85 percent of the wine must have been derived from grapes harvested in the labeled calendar year.

\* \* \* \* \*

Signed: May 31, 2005.

**John J. Manfreda,**  
Administrator.

Approved: June 16, 2005.

**Timothy E. Skud,**

Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

[FR Doc. 05-13041 Filed 6-30-05; 8:45 am]

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**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
**29 CFR Part 1610**
**RIN 3046-AA75**
**Freedom of Information Act Fee Schedule**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC or the Commission) is seeking comments on proposed revisions to its Freedom of Information Act (FOIA) fee schedule. The updated schedule of fees reflects increases in the direct costs incurred by the Commission in responding to requests for records.

**DATES:** The agency must receive comments on or before August 30, 2005.

**ADDRESSES:** Written comments should be submitted to Stephen Llewellyn, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments of six pages or less transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. This is not a toll free number. The six-page limitation is necessary to assure access to the equipment. Receipt of FAX transmissions will not be acknowledged although a sender may request confirmation by calling the Executive Secretariat at (202) 663-4070 (voice) or (202) 663-4074 (TTY). These are not toll free numbers. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC, between the hours of 9:30 a.m. and 5 p.m. Additionally, members of the public may submit comments through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Schlageter, Assistant Legal Counsel, or Michelle Zinman, Senior General Attorney at (202) 663-4640 (voice) or (202) 663-7026 (TTY). This notice is also available in the following formats: large print, Braille, audiotope and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publication Center at 1-800-669-3362.

**SUPPLEMENTARY INFORMATION:** EEOC is proposing to amend 29 CFR part 1610. This section contains a schedule of fees utilized by the Commission for purposes of assessing costs to individuals who seek access to records under the FOIA, 5 U.S.C. 552. The present fee schedule was last amended in 1983 and has become outdated. It does not reflect increases in direct costs to the Commission for manual search and review of records. Also, it does not account for technological advances, including computer searches, the direct costs of retrieving records from federal records centers, or the direct costs of making records available in electronic and alternative formats. The changes are being made in accordance with the Office of Management and Budget's Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012 (1987).

The higher costs of manual search and review are attributable to increases in the salaries of the involved personnel.

We surveyed our field offices to determine who was conducting the FOIA searches and reviews. We found that the vast majority were done by clerical or paralegal staff, although some offices used professional staff. A small number of field offices reported that managers sometimes conducted searches and reviews. Further, at headquarters, managers and Senior Executive Service (SES) employees occasionally conduct searches and reviews. In order to more accurately reflect the actual efforts and costs involved, we are replacing the current two-tier fee schedule (clerical and professional) with a five-tier schedule (clerical, paralegal, professional, managerial, and Senior Executive Service (SES) employees). Based upon our field survey, we determined that the average grade and step level for clerical personnel performing these functions was GS 6/Step 5; for paralegals was GS 11/Step 8; and for professional personnel was GS 12/Step 5. We calculated the proposed fees for these three categories by using the hourly rates in the U.S. Office of Personnel and Management's (OPM) 2005 Salary Table paid to persons at the average grade/step indicated in the previous sentence and adding 16 percent for benefits, as prescribed by the OMB guidance referred above. For managers (GS-15) and SES employees, we used the average GS-15 and added 16 percent for benefits.

We added several definitions for clarification. The terms "direct cost," "search," and "duplication" have been defined using standard language that can be found in the FOIA regulations of several other government agencies, including OMB. We also clarified that requesters will be charged other direct costs when applicable, e.g., computer search time, record retrieval costs, computer duplication costs, etc. Finally, we have increased the fees for attestation and certification of records to better reflect the actual costs of preparing these documents, and defined both terms to differentiate them from each other. The fees for attestation and certification of records under EEOC's Privacy Act regulations will subsequently be amended to mirror these fee changes under the FOIA.

**Regulatory Procedures**
*Executive Order 12866*

Pursuant to Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy,