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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Parts 4 and 24

[Docket No. TTB–2016–0005; Notice No. 160B; Re: Notice Nos. 160 and 160A]

RIN 1513–AC27

### Proposed Revisions to Wine Labeling and Recordkeeping Requirements; Comment Period Reopening

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

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is reopening for an additional 90 days the comment period for Notice No. 160, Proposed Revisions to Wine Labeling and Recordkeeping Requirements, a notice of proposed rulemaking published in the **Federal Register** on June 22, 2016. In Notice No. 160, TTB proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB also

proposed to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. TTB is reopening the comment period a second time in response to requests from a number of commenters. In addition, TTB is also soliciting comments on alternative proposals put forth by commenters during the previous public comment periods for Notice No. 160.

**DATES:** The comment period for the proposed rule published on June 22, 2016 (81 FR 40584) is reopened for 90 days. Written comments on Notice No. 160 are now due on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Please send your comments on Notice No. 160 to one of the following addresses:

- **Internet:** <https://www.regulations.gov> (via the online comment form for this document, Notice No. 160B, as posted within Docket No. TTB–2016–0005 at “Regulations.gov,” the Federal e-rulemaking portal);
- **U.S. Mail:** Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- **Hand delivery/courier in lieu of mail:** Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 400, Washington, DC 20005.

See the **Public Participation** section of Notice No. 160 for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, Notice Nos. 160 and 160A, and any comments made to TTB about the described proposals at <https://www.regulations.gov> within Docket No. TTB–2016–0005. A link to that docket is posted on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 160. You also may view copies of this document, Notice Nos. 160 and 160A, and any comments made to TTB about the described proposals by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. Please call (202) 453–2270 to make an appointment.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone (202) 453–1039, ext. 275.

**SUPPLEMENTARY INFORMATION:** In Notice No. 160, the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB also proposed to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. The 60-day comment period for Notice No. 160 originally closed on August 22, 2016.

On September 8, 2016, TTB published Notice No. 160A to reopen the comment period for an additional 90 days. This action was taken in response to requests received from two wine industry trade associations, Wine Institute and the California Association of Winegrape Growers, who stated that their membership was preoccupied with the grape harvest and thus needed additional time to assess the proposal contained in Notice No. 160 (see comments 7 and 41). Based on comments received up to that point, TTB also requested comments regarding whether any geographic reference to the source of the grapes used in the wine could be included on a wine label in a way that would not be misleading with regard to the source of the wine. The reopened comment period closed December 7, 2016.

A number of commenters responded to TTB's request in Notice No. 160A for comments on whether any geographic references to the source of the grapes used in a wine could be included on the label in a way that would not be misleading. Some of the proposals received suggest that geographic references could be included in such a way. Suggestions included proposals that TTB allow the following type of statements on wine labels:

- \_\_\_% of grapes grown in \_\_\_ [location], Produced and Bottled in \_\_\_ [location].
- "Grapes sourced in California."
- The use of American viticultural area (AVA) names modified by "grapes" (i.e., "Napa Valley Grapes)."

The most detailed proposal was submitted in a joint comment by Napa Valley Vintners and Wine Institute, posted as Comment 108 within Docket No. TTB–2016–0005 at [www.regulations.gov](http://www.regulations.gov). The two trade associations supported the adoption of the proposals made in Notice No. 160, but stated that “to the extent TTB is inclined to adopt regulations that would allow a COLA-exempt wine to also include grape source information,” they believe their proposal “protects the integrity of the appellation labeling system while also providing consumers with meaningful, truthful, and non-misleading information to identify grape source.” The comment also noted that California law would prohibit certain wines labeled with grape source information from being sold in that State, but that Napa Valley Vintners and Sonoma County Vintners would sponsor and advocate for an amendment to California law in the event that TTB amended its regulations as proposed in the comment.

Their proposal has four main components:

- TTB should adopt Notice No. 160 in its entirety so that all wines identified with an AVA name or appellation of origin are subject to the same Federal standards.
- Grape source information (which they state is distinct from appellations) could be allowed on the label as optional information if it includes all of the following: (1) The name of the county or counties and State or States, or just the State(s), where all of the grapes are grown. County names must be identified with the word “county” in the same type size and in letters as conspicuous as the name of the county; (2) The percentage of wine derived from

grapes grown in each county or State shown on the label, with a tolerance of  $\pm$  2 percent; and (3) The city and State, or just the State, where the wine was fully finished.

- Grape source information should not contain any reference to an AVA name or a name of viticultural significance or a confusingly similar name, other than a county or a State. In their example, a label could disclose the grape source as “Napa County, California,” but it could not include a claim that the grapes are from “Napa Valley,” which is an AVA name.

- Wines labeled with grape source information must be labeled with the “United States” country appellation of origin pursuant to 27 CFR 4.25(a)(1)(i). Use of this country appellation gives wineries the ability to include a vintage date and variety designation on their labels while at the same time signaling to consumers that the wine does not meet the Federal requirements for State, county, or AVA appellation of origin designations.

While the comment specifically addressed wines covered by certificates of exemption from label approval, it is unclear to TTB if this alternative proposal would also apply to wines subject to the labeling requirements of the Federal Alcohol Administration Act and labeled under a certificate of label approval.

In addition to the proposals discussed above, TTB received seven comments requesting an additional extension of the comment period for Notice No. 160. Six of these request an additional 90 days to comment, while the seventh requests an extension of an unspecified amount of time. Some of these comments state that additional time is needed given the complexity of the issues,

while others state that an extension of the comment period will allow time for wine industry members to reach a consensus on the proposal.

### **Determination to Reopen the Public Comment Period**

In response to the requests to extend the comment period, TTB is reopening the comment period for Notice No. 160 for an additional 90 days. We believe that 90 days will provide industry members and the public with the additional time necessary to fully consider both the original proposal put forth in Notice No. 160 and the alternative proposals discussed above. Therefore, comments on Notice No. 160 are now due to TTB on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

In addition to comments on the alternative proposals discussed above, TTB is interested in comments that address whether the alternative proposals should apply only to wines labeled under certificates of exemption for label approval, or if they should also apply to wines labeled under certificates of label approval, in which case corresponding amendments to the labeling regulations in part 4 would be necessary. TTB is also interested in comments regarding whether these proposals should apply to non-grape wines. Please provide specific information in support of your comments.

### **Submission of New Comments**

Comments on the original proposal put forth in Notice No. 160 and the alternative proposals discussed above may be submitted electronically via the online comment form for this document, Notice No. 160B, as posted within Docket No. TTB–2016–0005 at “Regulations.gov,” the Federal e-rulemaking portal. Comments may also be submitted via U.S. mail or hand delivery as described above in the **ADDRESSES** section of this document.

### **Drafting Information**

Jennifer Berry of the Regulations and Rulings Division drafted this document.

Signed: September 28, 2017.

**John J. Manfreda,**

Administrator.

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