

government. A payment is reasonably necessary to comply with such a Federal debt collection law if the payment is a necessary part of a course of action that results in compliance with the Federal debt collection law that would be violated absent such course of action, regardless of whether other actions would also result in compliance with the Federal debt collection law.

* * * * *

■ **Par. 6.** Section 1.409A-4 (REG-148326-05), as proposed at 73 FR 74380 (December 8, 2008), is proposed to be amended by revising paragraph (a)(1)(ii)(B) to read as follows:

§ 1.409A-4 Calculation of amount includible in income and additional income taxes.

* * * * *

(B) *Treatment of certain deferred amounts otherwise subject to a substantial risk of forfeiture—(1) Risk of forfeiture disregarded.* For purposes of determining the amount includible in income under section 409A(a)(1) and paragraph (a)(1)(i) of this section, an amount deferred under a plan that is otherwise subject to a substantial risk of forfeiture for a taxable year is treated as not subject to a substantial risk of forfeiture for the taxable year, if during the taxable year any of the following occur:

(i) A change (including an initial deferral election) that is not authorized under § 1.409A-1, § 1.409A-2, or § 1.409A-3 is made to a provision of the plan providing for the time or form of payment of the deferred amount, if the service recipient has not made a reasonable, good faith determination that, absent the change, the provision fails to comply with the requirements of section 409A(a).

(ii) The service recipient has engaged in a pattern or practice of permitting substantially similar failures to comply with section 409A(a) under one or more nonqualified deferred compensation plans while amounts deferred under the plans are nonvested, and the facts and circumstances indicate that the deferred amount would be affected by the pattern or practice. Whether such a pattern or practice exists will depend on the facts and circumstances, including, but not limited to, whether the service recipient has taken commercially reasonable measures to identify and correct the substantially similar failures promptly upon discovery, whether the failures have affected nonvested deferred amounts with greater frequency than vested deferred amounts, whether the failures have occurred more frequently under newly adopted plans, and whether the failures appear intentional,

are numerous, or repeat one or more similar past failures that were previously identified and corrected.

(iii) The correction of a failure to comply with section 409A(a) affecting the deferred amount is not consistent with an applicable correction method (if one exists) set forth in applicable guidance issued by the Treasury Department and the IRS for correcting failures under section 409A(a), or the failure is not corrected in substantially the same manner as a substantially similar failure affecting a nonvested deferred amount under another plan sponsored by the service recipient. Solely with respect to the deferred amount, the requirements under applicable correction guidance with respect to eligibility, income inclusion, additional taxes, premium interest, and information reporting by the service recipient or service provider do not apply.

■ **Par. 7.** Section 1.409A-6 is amended by revising paragraph (b) to read as follows:

§ 1.409A-6 Application of section 409A and effective dates.

* * * * *

(b) *Regulatory applicability date.* Section 1.409A-0, § 1.409A-1, § 1.409A-2, § 1.409A-3 and this section, as amended, apply for taxable years beginning on or after publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Section 1.409A-0, § 1.409A-1, § 1.409A-2, § 1.409A-3 and this section as they appeared in the April 2009 edition of 26 CFR part 1 apply for taxable years beginning on or after January 1, 2009 and before publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016-14331 Filed 6-21-16; 8:45 am]

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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. 160]

RIN 1513-AC27

Proposed Revisions to Wine Labeling and Recordkeeping Requirements

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes 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 not be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin unless 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 is also proposing to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement.

DATES: TTB must receive written comments on or before August 22, 2016.

ADDRESSES: Please send your comments on this document to one of the following addresses:

- *Internet:* <http://www.regulations.gov> (via the online comment form for this notice 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 this notice 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 and any comments TTB receives about this proposal at <http://www.regulations.gov> within Docket No. TTB-2016-0005. A link to that docket is posted on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 160. You also may view copies of this

proposed rule and any comments TTB receives about this proposal 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:

Background

TTB Authority

Chapter 51 of the Internal Revenue Code of 1986, as amended (IRC), 26 U.S.C. chapter 51, sets forth excise tax collection and related provisions pertaining to, among other things, the production of wine. Subchapter F of chapter 51 sets forth provisions specific to bonded and taxpaid wine premises. Under 26 U.S.C. 5388(a), standard wines may be removed from bonded and taxpaid wine premises subject to the provisions of subchapter F and be marked, transported, and sold under their proper designation as to kind and origin, or, if there is no such designation known to the trade or consumers, then under a truthful and adequate statement of composition. Pursuant to section 5367 of the IRC (26 U.S.C. 5367), a proprietor of a bonded wine cellar or a taxpaid wine bottling house shall keep such records and file such returns, in the form and containing such information, as the Secretary of the Treasury may by regulations provide.

A proprietor of a bonded wine cellar (including a bonded winery) or a taxpaid wine bottling house will be referred to in this document as a "wine proprietor."

In addition to the IRC marking and recordkeeping requirements, wines containing at least 7 percent alcohol by volume are subject to the labeling requirements of the Federal Alcohol Administration Act (FAA Act). Section 105(e) of the FAA Act, codified at 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product.

The FAA Act also generally requires a producer, blender, or wholesaler of wine, or proprietor of a bonded wine storeroom, to obtain a certificate of label approval prior to bottling wine for sale

in interstate commerce. Bottlers are exempt from the labeling requirements of the FAA Act if they show to the satisfaction of the Secretary that the wine will not be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in, interstate or foreign commerce. It should be noted that certificates of exemption from label approval are not available to importers who are removing wine in containers from customs custody for consumption. If those removals are for sale or any other commercial purpose, the importer must first obtain a certificate of label approval.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 of the IRC and the provisions of the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (dated December 10, 2013, superseding Treasury Order 120-01 (Revised), "Alcohol and Tobacco Tax and Trade Bureau," dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Current Regulatory Requirements

The TTB regulations implementing the provisions of chapter 51 of the IRC pertaining to the establishment and operation of wine premises are contained in 27 CFR part 24. The labeling requirements applicable to wine containers are found in 27 CFR 24.257. This section provides that proprietors must label each bottle or other container of wine prior to removal for consumption or sale. Certain mandatory information must appear on the label, including the name and address of the wine premises where bottled or packed; the brand name; the alcohol content; the kind of wine; and the net contents of the container.

The labeling requirements of part 24 apply to wines that are subject to the requirement for a certificate of label approval as well as wines that are covered by a certificate of exemption from label approval. Furthermore, some wines removed from wine premises may have less than 7 percent alcohol by volume, so they do not conform to the definition of "wine" under the FAA Act. See 27 U.S.C. 211(a)(6). These wines would not need a certificate of label approval or a certificate of exemption from label approval. Accordingly, the regulations in 27 CFR 24.257(a)(4), relating to the requirement that the wine be labeled with the kind

of wine, provide different rules with regard to wines subject to label approval, wines that are exempt from the label approval requirement, and wines containing less than 7 percent alcohol by volume.

Provisions regarding the records that a proprietor must maintain to substantiate label information are contained in 27 CFR 24.314. Section 24.314 provides that a proprietor who removes bottled or packed wine with information stated on the label (such as a grape varietal designation, vintage date, or an appellation of origin) shall have complete records so that the information appearing on the label may be verified by a TTB audit. Additionally, a wine is not entitled to have information stated on the label unless the information can be readily verified by a complete and accurate record trail from the beginning source material to the removal of the wine for consumption or sale. These regulations apply to all wine labels, not just wines covered by a certificate of label approval.

Neither the labeling nor the recordkeeping regulations in part 24 prescribe the conditions under which a wine proprietor may use grape variety names as a type designation or reference vintage dates or appellations of origin on labels of wine.

The TTB regulations implementing the wine labeling provisions of the FAA Act are contained in 27 CFR part 4. Part 4 includes provisions that govern the use of one or more grape variety names as a type designation, the use of type designations of varietal significance, the use of vintage dates, and the use of appellations of origin on wine labels. An American appellation of origin may be the United States, a State, two or no more than three States which are all contiguous, a county, two or no more than three counties in the same State, or an American viticultural area (AVA). Under 27 CFR 4.50(b), any bottler or packer of wine shall be exempt from the requirements of part 4 if upon application the bottler or packer shows to the satisfaction of the appropriate TTB officer that the wine to be bottled or packed is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. If TTB is satisfied that the wine will not be introduced into interstate commerce, it will issue a certificate of exemption from label approval to the bottler or packer.

Concerns Regarding Label Information on Wines Covered by Certificates of Exemption From Label Approval

Some wine industry members have contacted TTB with their concerns regarding the accuracy of label information on certain wines covered by certificates of exemption from label approval. Specifically, the wines in question are standard wines labeled with AVA names, but the wines do not appear to meet the part 4 requirements for using an AVA name. In addition, TTB also received a letter signed by members of the California, Washington, Oregon, and New York Congressional delegations expressing similar concerns and urging TTB to use its authority to enforce the standards set out in the FAA Act regulations for all wines bearing an AVA appellation, regardless of where they are sold.

With regard to AVAs, under 27 CFR 4.25(e)(3)(iv), in order for a wine to be labeled with an AVA name: (1) The AVA name must have been approved under 27 CFR part 9; (2) not less than 85 percent of the wine must be derived from grapes grown within the boundaries of the viticultural area; and (3) the wine must have been fully finished within the State, or one of the States, within which the labeled viticultural area is located (except for cellar treatments permitted by 27 CFR 4.22(c) or blending which does not result in an alteration of class and type under 27 CFR 4.22(b)). Thus, a wine labeled with the AVA name "Napa Valley" must have been fully finished in California, in addition to complying with other requirements, in order to qualify to use the name "Napa Valley" as an appellation of origin on the label.

Accordingly, a wine labeled with the appellation "Napa Valley" but also labeled with a statement that indicates that the wine is produced outside of California, such as "Produced and bottled by ABC Winery, Anytown, Illinois," would not meet the provisions of § 4.25(e)(3)(iv) since the wine was not fully finished in California. As a result, it would not qualify for a certificate of label approval. However, if the wine will be sold only within the State of Illinois, and the bottler certifies that it will not introduce the bottled product into interstate commerce, then, in accordance with 27 U.S.C. 205(e), the wine is eligible for a certificate of exemption from label approval, which would exempt it from the provisions of part 4.

The letter from the members of Congress who contacted TTB on this issue expressed concern that the use of AVA names on wines that are covered

by certificates of exemption and that do not comply with the AVA provisions contained in § 4.25(e)(3)(iv) undermines the best interests of the consumer and the decades-old system of American viticultural areas, is contrary to the purposes of the FAA Act, and should not be permitted under the IRC labeling regulations in 27 CFR part 24. The industry members asked whether § 24.314, which requires proprietors to maintain complete records verifying label information (including information that substantiates appellation of origin claims such as AVAs), provides TTB with the authority to enforce the part 4 standards for AVAs on wines covered by certificates of exemption. However, it is TTB's position that there currently are no provisions in part 24, including § 24.314, that require wine proprietors to comply with part 4 standards for labeling when the wine is covered by a certificate of exemption. In reviewing this regulation, TTB also realized that the regulation does not clearly set forth the standards to which wines will be held when evaluating whether labeling claims are adequately substantiated by records.

TTB Analysis

TTB recognizes that wines covered by a certificate of exemption are not subject to the substantive labeling requirements of the FAA Act. On the other hand, the IRC (which covers wines sold in intrastate commerce as well as wines sold in interstate commerce) clearly provides TTB with authority to issue regulations requiring truthful and accurate information on wine containers and labels regarding the identity and origin of the wine. As previously noted, section 5388(a) of the IRC requires that wines be marked, transported and sold under their "proper designation as to kind and origin, or, if there is no such designation known to the trade or consumers, then under a truthful and adequate statement of composition." If proprietors choose to label their wines with varietal (grape type) designations, type designations of varietal significance, vintage dates, or appellations of origin, all of which are terms of art that are subject to specific rules set forth in the FAA Act regulations, then those designations may convey to both the trade and consumers the meaning that is ascribed to them in the regulations under part 4.

It should be noted that this issue is not unique to wine. TTB has adopted a similar policy with regard to the labeling of distilled spirits under the IRC regulations in part 19, which require distilled spirits labeled under a

certificate of exemption from label approval to include certain labeling designations and statements in compliance with the requirements of the FAA Act labeling regulations in 27 CFR part 5. See 27 CFR 19.517.

Accordingly, TTB is proposing to revise its regulations in §§ 24.257(b) and 24.314 to apply the part 4 rules for use of varietal (grape type) designations, type designations of varietal significance, vintage dates, and appellations of origin on wine labels to standard grape wine that is at least 7 percent alcohol by volume, where that wine is covered by a certificate of exemption from label approval. This amendment would ensure that the rules for the use of those designations of the origin or kind of a wine under section 5388(a) of the IRC are consistent with the existing rules for the use of those designations under the FAA Act.

TTB is proposing to apply this requirement only to standard grape wines that contain at least 7 percent or more alcohol by volume because the labeling of wines that contain less than 7 percent alcohol by volume is not subject to the provisions of the FAA Act. While wines under 7 percent alcohol by volume are subject to the IRC labeling requirements of part 24, as well as the health warning statement requirements of part 16, those products do not fall under the definition of wine under the FAA Act. Thus, those products are subject to the food labeling requirements of the regulations issued by the U.S. Food and Drug Administration. Because the part 4 regulations limit the use of varietal (grape type) designations, type designations of varietal significance, vintage dates, and AVAs to grape wines, TTB is similarly proposing that the new provisions would apply solely to standard grape wines.

TTB is not proposing in this document to extend this provision to include non-grape wines. However, TTB seeks comments and additional information on whether the amendments proposed in this document should be extended to non-grape wines, such as fruit wines or agricultural wines.

Accordingly, TTB proposes to amend § 24.257 to require that a standard grape wine that contains 7 percent or more alcohol by volume and is covered by a certificate of exemption from label approval may not be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin unless the wine complies with the relevant part 4 provisions for that label information. This requirement would

apply only to wines covered by certificates of exemption, because wines covered by certificates of label approval are already subject to the labeling provisions of part 4. Wines that are not standard grape wine containing 7 percent or more alcohol by volume and that are covered by a certificate of exemption are exempt from all part 4 labeling provisions. TTB also proposes to make corresponding changes in the recordkeeping requirements of § 24.314.

Finally, TTB is also proposing to revise § 4.50(b) to incorporate a reference to the labeling requirements contained in § 24.257.

Technical Changes

TTB also is removing the Office of Management and Budget control numbers assigned to the former Bureau of Alcohol, Tobacco and Firearms (ATF) and replacing them with the control numbers assigned currently to TTB. In § 24.257, the former control number 1512-0503, assigned to ATF, is now control number 1513-0092, assigned to TTB. In § 24.314, the former control number 1512-0298 is now control number 1513-0115. The changes to these control numbers are merely technical in nature and do not change any regulatory or recordkeeping requirement.

Public Participation

Comments Sought

TTB requests comments from interested members of the public on the proposed change. Additionally, TTB welcomes comments on whether the new provisions should include non-grape wines. Finally, TTB solicits comments on how many labels would be affected by the proposed amendments, and how much time affected proprietors would need in order to revise their labels to comply with the proposed changes. Please provide specific information in support of your comments.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form posted with this proposed rule within Docket No. TTB-2016-0005 on “*Regulations.gov*,” the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 160 on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted

via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, click on the site’s “Help” tab.

- **U.S. Mail:** You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

- **Hand Delivery/Courier:** You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 160 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments and considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name as well as your name and position title. In your comment via *Regulations.gov*, please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity’s comment on letterhead.

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 whether to hold a public hearing.

Confidentiality

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

Public Disclosure

TTB will post, and you may view, copies of this proposed rule and any online or mailed comments received about this proposal within Docket No. TTB-2016-0005 on the Federal e-rulemaking portal. A direct link to that docket is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 160. You may also reach the relevant docket through the *Regulations.gov* search page at <http://www.regulations.gov>. For

information on how to use *Regulations.gov*, click on the site’s “Help” tab.

All posted comments will display the commenter’s name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You may view copies of this proposed rule and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies for 20 cents per 8.5- x 11-inch page. Contact TTB’s information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule, if adopted, will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the proposed regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small businesses.

TTB recognizes that if the proposed rule is adopted as a final rule, some bottlers of wine may have to make revisions to labels currently covered by certificates of exemption; however, we believe that the number of affected labels will be small. TTB specifically solicits comments on the number of small producers and bottlers that may be affected by this proposed rule and the impact of this proposed rule, if adopted as a final rule, on those small businesses.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Paperwork Reduction Act

The two collections of information affected by this notice of proposed rulemaking have been previously

reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and assigned control numbers 1513–0092 and 1513–0115. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The proposed regulatory text in 27 CFR 24.257 contains an alteration to the information collection currently approved under OMB control number 1513–0092. If adopted, this revision would require changes in the labeling of certain wines currently covered by a certificate of exemption from label approval, where those wines are labeled with varietal (grape type) designations, type designations of varietal significance, vintage dates, or appellations of origin, in a manner that would not be allowed under the standards set forth in the regulations in 27 CFR part 4. However, since the labeling of wines, whether covered by certificates of exemption or by certificates of label approval, is a usual and customary business practice and would be done by proprietors with or without the TTB regulatory requirement, TTB does not believe that there would be any increase in the current burden hours associated with this information collection. We are, however, reporting an increase in the number of respondents to this collection, from 10,506 to 10,970, to reflect the current number of wine industry members regulated by TTB. We estimate the current burden associated with this information collection as follows:

- *Estimated Number of Respondents:* 10,970.
- *Estimated Annual Frequency of Responses:* 1 (one).
- *Estimated Average Annual Total Burden Hours:* 1 hour.

The proposed regulatory text in 27 CFR 24.314 contains an alteration to the information collection currently approved under OMB control number 1513–0115. If adopted, this revision would require proprietors to keep records substantiating certain information contained on the labels of certain wines currently covered by a certificate of exemption from label approval, where those wines are labeled with varietal (grape type) designations, type designations of varietal significance, vintage dates, or appellations of origin. In particular, the records would have to substantiate that the claims would be allowed under the standards for use of such claims under

the regulations in 27 CFR part 4. However, since the keeping of records substantiating the information provided on wine labels, whether covered by certificates of exemption or by certificates of label approval, is a usual and customary business practice and would be done by proprietors with or without the TTB regulatory requirement, TTB does not believe that there would be any increase in the current burden for this information collection, which is estimated as follows:

- *Estimated Number of Respondents:* 10,970.
- *Estimated Annual Frequency of Responses:* 1 (one).
- *Estimated Average Annual Total Burden Hours:* 1 hour.

Revisions of these two currently approved collections have been submitted to OMB for review. Comments on the revisions to OMB control number 1513–0092 and 1513–0115 should be sent to OMB by one of these two methods:

- *By U.S. Mail:* Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503; or
- *By E-mail:* submission@omb.eop.gov.

A copy should also be sent to the Alcohol and Tobacco Tax and Trade Bureau by any of the methods previously described. Comments on the information collection should be submitted not later than August 22, 2016. Comments are specifically requested concerning:

- Whether the proposed revisions of the collections of information approved under OMB control number 1513–0115 and 1513–0092 are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the proposed revisions of the collections of information;
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed revision of the collection of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Drafting Information

Jennifer Berry of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 4

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

27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

Proposed Regulatory Amendments

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 4 and 24 as set forth below:

PART 4—LABELING AND ADVERTISING OF WINE

- 1. The authority citation for 27 CFR part 4 continues to read as follows:

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

- 2. Section § 4.50 is amended by adding a sentence to the end of paragraph (b) to read as follows:

§ 4.50 Certificates of label approval.

* * * * *

(b) * * * See § 24.257 of this chapter for additional labeling rules that apply to wines covered by a certificate of exemption.

* * * * *

PART 24—WINE

- 3. The authority citation for 27 CFR part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

- 4. Section § 24.257 is amended by revising paragraph (b) and by revising the OMB control number located in the

second parenthetical phrase at the end of the section, to read as follows:

§ 24.257 Labeling wine containers.

* * * * *

(b) *Requirements applicable to information on labels*—(1) *Verification and recordkeeping requirements.* The information shown on any label applied to bottled or packed wine is subject to the verification and recordkeeping requirements of § 24.314.

(2) *Varietal designations, type designations of varietal significance, grape vintage dates, and appellations of origin.* For wines covered by a certificate of exemption from label approval, the use of any label that includes a varietal (grape type) designation, a type designation of varietal significance, a grape vintage date, or an appellation of origin for any standard grape wine containing 7 percent or more alcohol by volume is prohibited unless the wine would be entitled to use of such a labeling term under the standards set forth in the following sections of 27 CFR part 4:

(i) *Varietal (grape type) designation.* The use of a varietal (grape type) designation must conform to the requirements of § 4.23 of this chapter;

(ii) *Type designation of varietal significance.* The use of a type designation of varietal significance must conform to the requirements of § 4.28 of this chapter;

(iii) *Vintage date.* The use of a vintage date must conform to the requirements of § 4.27 of this chapter; and

(iv) *Appellation of origin.* The use of an appellation of origin must conform to the requirements of § 4.25 of this chapter.

* * * * *

(Approved by the Office of Management and Budget under control number 1513-0092)

■ 5. Section 24.314 is amended to read as follows:

§ 24.314 Label information record.

(a) *General.* A proprietor who removes bottled or packed wine with information stated on the label (*e.g.*, varietal, vintage, appellation of origin, analytical data, date of harvest) shall have complete records, as applicable, so that the information appearing on the label may be verified by a TTBA audit. A wine is not entitled to have information stated on the label unless the information can be readily verified by a complete and accurate record trail from the beginning source material to removal of the wine for consumption or sale.

(b) *Establishing that wine is entitled to labeling claims.* A proprietor must keep

records that will enable TTBA to verify that the labeling of the wine complies with the applicable labeling requirements in this part. In addition, if wine is subject to Federal Alcohol Administration Act labeling provisions under 27 CFR part 4, the records must establish that the labeling of the wine complies with the applicable labeling provisions of 27 CFR part 4. For wines covered by a certificate of exemption, the use of any label that includes a varietal (grape type) designation, a type designation of varietal significance, a grape vintage date, or an appellation of origin for any standard grape wine containing 7 percent or more alcohol by volume is prohibited unless the proprietor has records establishing that the use of such a term complies with the standards set forth in the appropriate sections of 27 CFR part 4 for use of such a labeling term.

(c) *Record retention.* All records necessary to verify wine label information are subject to the record retention requirements of § 24.300(d).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

(Approved by the Office of Management and Budget under control number 1513-0115)

Signed: April 7, 2016.

John J. Manfreda,
Administrator.

Approved: April 22, 2016.

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

[FR Doc. 2016-14696 Filed 6-21-16; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO-T-2016-0002]

RIN 0651-AD07

Changes in Requirements for Affidavits or Declarations of Use, Continued Use, or Excusable Nonuse in Trademark Cases

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to assess and promote the accuracy and integrity of the trademark register, the United States Patent and Trademark Office (USPTO or Office) proposes to amend its rules concerning the examination of affidavits

or declarations of continued use or excusable nonuse filed pursuant to section 8 of the Trademark Act, or affidavits or declarations of use in commerce or excusable nonuse filed pursuant to section 71 of the Trademark Act. Specifically, the USPTO proposes to require the submission of information, exhibits, affidavits or declarations, and such additional specimens of use as may be reasonably necessary for the USPTO to ensure that the register accurately reflects marks that are in use in the United States for all the goods/services identified in the registrations, unless excusable nonuse is claimed in whole or in part. A register that does not accurately reflect marks in use in the United States for the goods/services identified in registrations imposes costs and burdens on the public. The proposed rules will allow the USPTO to require additional proof of use to verify the accuracy of claims that a trademark is in use in connection with particular goods/services identified in the registration.

DATES: Comments must be received by August 22, 2016 to ensure consideration.

ADDRESSES: The USPTO prefers that comments be submitted via electronic mail message to TMFRNotices@uspto.gov. Written comments may also be submitted by mail to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, attention Jennifer Chiccoski; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, VA, 22314, attention Jennifer Chiccoski; or by electronic mail message via the Federal eRulemaking Portal at <http://www.regulations.gov>. See the Federal eRulemaking Portal Web site for additional instructions on providing comments via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking Portal should include the docket number (PTO-T-2016-0002).

The comments will be available for public inspection on the USPTO's Web site at <http://www.uspto.gov>, on the Federal eRulemaking Portal, and at the Office of the Commissioner for Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, VA 22314. Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included.

FOR FURTHER INFORMATION CONTACT: Jennifer Chiccoski, Office of the Deputy Commissioner for Trademark