

treated as a highway vehicle if it is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design its capability to transport a load over the public highway is substantially limited or impaired. A vehicle's design is determined solely on the basis of its physical characteristics. In determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether it is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether it can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than it is permitted to transport over the public highway.

(ii) *Nontransportation trailers and semitrailers.* A trailer or semitrailer is not treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an offhighway function at an offhighway site. For example, a trailer that is capable only of functioning as an office for an offhighway construction operation is not a highway vehicle.

(b) *Public highway.* *Public highway* means any road (whether a federal or state highway, city street, or otherwise) in the United States that is not a private roadway.

(c) *Examples.* The following examples illustrate the provisions of this section:

*Example 1.* Vehicle A consists of a truck chassis on which a telescoping boom-type crane that extends to a length of 130 feet has been permanently mounted. The vehicle is capable of transporting the crane over the public highway. Because Vehicle A is a self-propelled vehicle capable of transporting a load (the crane) over the public highway, it is a highway vehicle described in paragraph (a)(1) of this section. It is immaterial that the load is permanently mounted on the chassis.

*Example 2.* Vehicle B consists of a truck chassis on which a dump body has been installed. The vehicle's empty (tare) weight is 15,000 pounds and its gross vehicle weight rating is 46,000 pounds. It is capable of transporting a load over the public highway. Its drive train and suspension enable it to transport a load off road over soft, uneven terrain but do not limit its ability to transport its load at public highway speeds. Because Vehicle B is a self-propelled vehicle capable of transporting a load over the public highway, it is a highway vehicle. Although Vehicle B has some physical characteristics for transporting its load other than over the public highway (its drive train and suspension), those characteristics are not of a magnitude, when compared with its physical characteristics for transporting the load over the public highway, to establish

that it is specially designed for the primary function of transporting its load other than over the public highway. Therefore, Vehicle B is not a vehicle described in the exception provided in paragraph (a)(2)(i) of this section.

*Example 3.* Vehicle C consists of a truck chassis on which an oversize body designed to transport and apply liquid agricultural chemicals on farms has been installed. It is capable of transporting a load over the public highway. It is 132 inches in width, which is considerably in excess of standard highway vehicle width. For travel on uneven and soft terrain, it is equipped with oversize wheels with high-flotation tires, and nonstandard axles, brakes, and transmission. It has a special fuel and carburetor air filtration system that enable it to perform efficiently in an environment of dirt and dust. It is not able to maintain a speed of 25 miles per hour for more than one mile while fully loaded. Because Vehicle C is a self-propelled vehicle capable of transporting a load over the public highway, it is a highway vehicle described in paragraph (a)(1) of this section. However, its considerable physical characteristics for transporting its load other than over the public highway, when compared with its physical characteristics for transporting the load over the public highway, establish that it is specially designed for the primary function of transporting its load other than over the public highway. Further, the physical characteristics for transporting its load other than over the public highway substantially limit its capability to transport a load over the public highway. Therefore, Vehicle C is a vehicle described in the exception provided in paragraph (a)(2)(i) of this section and is not treated as a highway vehicle.

(d) *Effective date.* This section is applicable on and after the first day of the first calendar quarter beginning after the day of publication of the final regulations in the **Federal Register**.

#### § 48.4072-1 [Amended]

6. In § 48.4072-1, paragraphs (c)(1)(i) and (c)(1)(ii) are amended by removing the language “§ 48.4061(a)-1(d)” and adding “§ 48.4051-1” in its place.

#### § 48.4081-1 [Amended]

7. In § 48.4081-1, paragraph (b), the definition of *Diesel-powered highway vehicle* is amended by removing the language “§ 48.4041-8(b)” and adding “§ 48.4051-1” in its place.

8. In § 48.6421-4, paragraph (c) is revised to read as follows:

#### § 48.6421-4 Meaning of terms.

\* \* \* \* \*

(c) *Highway vehicle.* For the definition of *highway vehicle*, see § 48.4051-1.

\* \* \* \* \*

### PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97-424)

9. The authority citation for part 145 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*

#### § 145.4051-1 [Amended]

10. Section 145.4051-1 is amended as follows:

1. In paragraph (a)(2), first sentence, the language “(as defined in paragraph (d) of § 48.4061(a)-1 (Regulations on Manufacturers and Retailers Excise Taxes))” is removed and “as defined in § 48.4051-1 of this chapter” is added in its place.

2. In paragraph (a)(4), last sentence, the language “§ 48.4061(a)-1” is removed and “§ 48.4051-1 of this chapter” is added in its place.

3. Paragraph (d) is removed and reserved.

**David A. Mader,**

*Acting Deputy Commissioner of Internal Revenue.*

[FR Doc. 02-14231 Filed 6-5-02; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 4

[Notice No. 945; Re: Notice No. 941]

RIN 1512-AC65

### Proposal to Recognize Synonyms for Petite Sirah and Zinfandel Grape Varieties (2001R-251P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This notice extends the comment period for Notice No. 941, a notice of proposed rulemaking published in the **Federal Register** on April 10, 2002. The proposed rule would amend the list of prime grape names to recognize “Durif” as a synonym for the Petite Sirah grape and “Primitivo” as a synonym for the Zinfandel grape. ATF has received a request to extend the comment period so that all interested parties will have sufficient time to evaluate the proposed rule.

**DATES:** Written comments must be received by October 8, 2002.

**ADDRESSES:** Send written comments regarding the proposed rule to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 941). See the "Public Participation" section of this notice for alternative means of commenting.

Copies of the proposed regulation, background materials, and any written comments received will be available for public inspection during normal business hours at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226.

**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) 434-8039.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 10, 2002, ATF published a notice of proposed rulemaking (Notice No. 941) in the **Federal Register** proposing two amendments to its list of prime grape variety names used to designate American wines. This list is contained in title 27 of the Code of Federal Regulations, section 4.91. The first amendment would recognize the name "Durif" as a synonym for the Petite Sirah grape, while the second would recognize the name "Primitivo" as a synonym for the Zinfandel grape. This proposal is based on DNA research conducted into the identity of these grapes. The comment period for Notice No. 941 currently closes on June 10, 2002.

However, ATF has received a request from the Wine Institute to extend the comment period for an additional 120 days. The Wine Institute, which represents 605 California wineries, states that the proposal regarding the Zinfandel grape could have significant impact on the California wine industry. For this reason, it requested additional time to adequately evaluate the scientific evidence and the various issues raised by the proposed rule.

After considering this request, ATF finds that an extension of the comment period is warranted. We are therefore extending the comment period for an additional 120 days as requested. The comment period for Notice No. 941 will now close October 8, 2002.

##### **Public Participation**

ATF requests comments from all interested parties on the proposals contained in Notice No. 941. We

specifically request comments on the clarity of the proposed rule and how it may be made easier to understand.

##### *What Is a Comment?*

In order for a submission to be considered a "comment," it must clearly indicate a position for or against the proposed rule or some part of it, or express neutrality about the proposed rule. Comments that use reasoning, logic, and, if applicable, good science to explain the commenter's position are most persuasive in the formation of a final rule.

To be eligible for consideration, comments must:

- Contain your name and mailing address;
- Reference Notice No. 941;
- Be legible and written in language generally acceptable for public disclosure;
- Contain a legible, written signature if submitted by mail or fax; and
- Contain your e-mail address if submitted by e-mail.

To assure public access to our office equipment, comments submitted by fax must be no more than three pages in length when printed on 8½" by 11" paper. Comments submitted by mail or e-mail may be any length.

##### *How May I Submit Comments?*

*By Mail:* You may send written comments by mail to the address shown above in the **ADDRESSES** section of this notice.

*By Fax:* You may submit comments by facsimile transmission to (716) 434-8041. We will treat faxed transmissions as originals.

*By E-Mail:* You may submit comments by e-mail by sending the comments to [nprm@atfhq.atf.treas.gov](mailto:nprm@atfhq.atf.treas.gov). We will treat e-mailed transmissions as originals.

*By On-line Form:* You may also submit comments using the comment form provided with the online copy of the proposed rule on the ATF Internet web site at <http://www.atf.treas.gov/alcohol/rules/index.htm>. We will treat comments submitted via the web site as originals.

##### *How Does ATF Use the Comments?*

We will carefully consider all comments we receive on or before the closing date. We will also carefully consider comments we receive after that date if it is practical to do so, but we cannot assure consideration of late comments. We will not acknowledge receipt of comments or reply to individual comments. We will summarize and discuss pertinent comments in the preamble to any subsequent notices or the final rule published as a result of the comments.

##### *Can I Review Comments Received?*

You may view copies of the comments on Notice No. 941 by appointment at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927-7890. You may request copies of the comments by writing to the ATF Reference Librarian at the address shown above.

For the convenience of the public, ATF will post comments received in response to Notice 941 on the ATF web site. All comments posted on our web site will show the name of the commenter, but will not show street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the library or through FOIA requests, as noted above. To access online copies of the comments on this rulemaking, visit <http://www.atf.treas.gov/>, and select "Regulations," then "Notices of proposed rulemaking (Alcohol)" and Notice No. 941. Click on the "View Comments" button.

##### *Will ATF Keep My Comments Confidential?*

ATF cannot recognize any material in comments as confidential. All comments and materials may be disclosed to the public in the ATF Reading Room or in response to a FOIA request. We may also post the comment on our web site. (See "Can I Review Comments Received?") Finally, we may disclose the name of any person who submits a comment and quote from the comment in the preamble to a final rule on this subject. If you consider your material to be confidential or inappropriate for disclosure to the public, you should not include it in the comments.

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

##### **Authority and Issuance**

This notice is issued under the authority contained in 27 U.S.C. 205.

Signed: May 31, 2002.

**David L. Benton,**

*Deputy Director.*

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BILLING CODE 4810-13-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

[KY-236-FOR]

#### Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed withdrawal of required amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are proposing to reconsider our position on a required amendment to the Kentucky regulatory program (the "Kentucky program") (found at 30 CFR 917.16(d)(2)) under the Surface Mining Reclamation Act of 1977 (SMCRA or the Act). By doing so, we are considering whether the Kentucky program is consistent with the corresponding Federal Regulations at 30 CFR 773.13(a)(1) and 30 CFR 701.5.

This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., e.s.t. July 5, 2002. If requested, we will hold a public hearing on the amendment on July 1, 2002. We will accept requests to speak until 4 p.m., e.s.t. on June 21, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Kentucky Field Office Director William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Kentucky Field Office.

William J. Kovacic, Director, Kentucky Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260-8402. Internet address: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564-6940.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Telephone: (502) 564-6940. Internet: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Description of the Proposed Amendment
- III. Public Comment Period
- IV. Procedural Determinations

#### I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982 **Federal Register** (47 FR 21426). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.15 and 917.16.

#### II. Description of the Proposed Amendment

On December 31, 1990, we published, in the **Federal Register** (55 FR 53490), a requirement that Kentucky amend their program to require that public notice shall not be initiated until the cabinet has determined that a permit application is administratively complete. Kentucky was required to respond by January 30, 1991, but by letter of February 1, 1991, requested an extension to February 28, 1991. We granted that extension by letter of February 22, 1991. On March 4, 1991, Kentucky responded by letter indicating

that the existing regulation at 405 KAR 8:010 is as effective as the Federal regulations. In their response, Kentucky reminded OSM that the initial program approval of May 18, 1982, considered these public notice differences but considered them as effective as the Federal regulations. No action was taken on this letter. OSM is proposing to reconsider our position that Kentucky's program needs to be amended.

#### III. Public Comment Period

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

#### Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see DATES*). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Kentucky Field Office may not be logged in.

#### Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. KY-236-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Kentucky Field Office at (859) 260-8402.

#### Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as