

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[Notice No. 20]

RIN 1513-AA69

**Proposed Establishment of the Salado Creek Viticultural Area (2003R-025P)****AGENCY:** Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the Salado Creek viticultural area in western Stanislaus County, California. Located near the town of Patterson, the proposed viticultural area covers 2,940 acres, with 44 acres currently planted to grapes. We propose this action under the authority of the Federal Alcohol Administration Act. We invite comments on this proposal, particularly from bottlers who use brand names similar to that of the proposed area.

**DATES:** We must receive written comments on or before December 29, 2003.

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

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 20);
- 202-927-8525 (facsimile);
- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail); or
- <http://www.ttb.gov> (An online comment form is posted with this notice on our Web site.)

You may view copies of this notice and any comments received at <http://www.ttb.gov/alcohol/rules/index.htm> or by appointment at our reference library, 1310 G Street, NW., Washington, DC 20005; telephone 202-927-8210 for an appointment. You may also access copies of the notice and comments on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>.

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

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Specialist, Regulations and Procedures Division (Oregon), Alcohol and Tobacco Tax and Trade Bureau, 946 Northwest Circle Blvd., #286, Corvallis, OR 97330; telephone 415-271-1254.

**SUPPLEMENTARY INFORMATION:****Background on Viticultural Areas***TTB Authority*

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting 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, and the Secretary has delegated this authority to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural Areas, contains the list of approved viticultural areas.

*Definition*

Title 27 CFR 4.25(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundary has been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of the wine made from grapes grown in an area to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

*Requirements to Establish a Viticultural Area*

Section 4.25(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition TTB to establish a grape-growing region as a viticultural area. The petition must include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence that the proposed area's growing conditions, such as climate, soils, elevation, physical features, etc., distinguish it from surrounding areas;
- A description of the proposed viticultural area's specific boundaries,

based on features found on maps approved by the United States Geological Survey (USGS); and

- A copy of the appropriate USGS-approved map(s) with the boundaries prominently marked.

*Impact on Current Wine Labels*

As appellations of origin, viticultural area names have geographic significance. Our 27 CFR part 4 label regulations prohibit the use of a brand name with geographic significance on a wine unless the wine meets the appellation of origin requirements for the named area. Our regulations also prohibit any other label references that suggest an origin other than the true place of origin of the wine.

If we establish this proposed viticultural area, bottlers who use brand names, including trademarks, like Salado Creek must ensure that their existing products are eligible to use the viticultural area's name as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area, and the wine must meet the other requirements of 27 CFR 4.25(e)(3).

If the wine is not eligible for the appellation, the bottler must change the brand name or other label reference and obtain approval of a new label. Different rules apply to a wine in this category bearing a brand name that was used on a label approved prior to July 7, 1986. See 27 CFR 4.39(i) for details.

**Salado Creek Petition**

TTB has received a petition filed on behalf of Mr. Fred Vogel of the Sunflower Ranch Company in Patterson, California, proposing the establishment of the "Salado Creek" viticultural area in Stanislaus County, California. The proposed 2,940-acre area is located about 75 miles east-southeast of San Francisco and 18 miles southwest of Modesto in a rural area of central, interior California. The proposed area is located along Interstate 5 on the western edge of the San Joaquin Valley, just southwest of the town of Patterson. The Diablo Mountains rise to the west of the proposed area and shield it from the Pacific Ocean's marine influence. Salado Creek flows from the mountains through the area, while Little Salado Creek touches its southern tip.

*Name Evidence*

According to the petition, Spanish explorer Gabriel Moraga named Salado Creek. Moraga, a Spanish army officer, explored the San Joaquin Valley during his 1806-1811 expeditions to the San Joaquin Valley and named many of its

geographic features including the San Joaquin River. Many of those names remain in use today. The names "Salado" and "Salado Creek," for example, are attached to a variety of features and places, both natural and man-made.

As shown on the two official United States Geological Survey (USGS) maps that cover the proposed viticultural area, the Patterson and Crows Landing quadrangles, Salado Creek is an intermittent stream that flows east from the higher elevations of the Diablo Mountains. After passing under Interstate 5, Salado Creek turns and flows north through the proposed viticultural area. After leaving the proposed area, the creek runs west and north of Patterson.

The Patterson quadrangle map shows Little Salado Creek running east from the Diablo Mountains to the southern tip of the proposed viticultural area, where Interstate 5 and the California Aqueduct interrupt its natural channel. On the Crows Landing map, the creek is shown to resume southeast of the proposed area where it runs northeast from the Delta-Mendota Canal. The Salado Sub-Station is shown beside the California Aqueduct within the proposed area's boundaries.

The petition also notes that the Salado Creek Ranch, known for its walnuts, is within the proposed boundary area. It adds that Salado Avenue in Patterson is a major street that passes the town's post office, its branch library, a new school, and the city council's chambers. The petition also states that the local irrigation district was previously known as the Salado Irrigation District.

The petition explains that Salado Creek is best known to local residents for its floods. "Salado Creek History," an article published in "The Gateway: A Patterson Township History Society Bulletin" in December 1996, discusses the creek's significant floods. As noted in the article, the March 4, 1938, edition of the local Patterson Irrigator newspaper states that Salado Creek spilled over its banks and onto State Highway 33 on Patterson's east side. The article adds that a flood in November of 1938 spilled into a local nursery.

#### *Boundary Evidence*

The petitioner explains that water from Salado Creek and Little Salado Creek has deposited large quantities of sediment on the flood plain and formed an alluvial fan. Further, these sediments are the parent material for the Ensalado soil series, which the petition states are unique to western Stanislaus County. The petitioner emphasizes that the

proposed Salado Creek viticultural area boundaries, which are on this alluvial fan, generally coincide with the extent of the Ensalado soil series.

#### *Growing Conditions*

##### *Topography*

The proposed Salado Creek viticultural area lies on the western side of the San Joaquin Valley at the foot of the Diablo Mountains, which are part of California's Coast Range. The proposed area, which is between 125 and 340 feet above sea level as noted on the USGS maps, is generally flat, with a gentle downward slope to the northeast towards the San Joaquin River. A number of man-made canals, ditches, and drains cross the proposed viticultural area. The California Aqueduct and the Delta-Mendota Canal, for example, flow from the northwest to the southeast across the proposed Salado Creek viticultural area.

Salado Creek is the major natural watercourse in the proposed viticultural area. An intermittent stream, it begins in the Diablo Mountain Range to the area's west and runs east in its natural channel from the mountains to the California Aqueduct. After crossing the Aqueduct at the foot of the Diablos, the creek flows north and then northeasterly across the gently sloping floor of the San Joaquin Valley. After crossing the Delta-Mendota Canal in a flume, it enters a man-made channel that carries it north out of the proposed viticultural area and then east around the heart of Patterson. According to the petition, Salado Creek then enters large drainpipes at State Route 33, which take its water to the San Joaquin River.

Another intermittent stream, Little Salado Creek, starts in the Diablo range south of Salado Creek. It meanders east in its natural channel to the southern tip of the proposed boundary area at Interstate 5 and Fink Road. The creek then enters a series of man-made drains and channels as it flows northeast across the valley floor outside of the proposed area south of Patterson.

The petition states that the proposed area covers the upper portion and back slope of the alluvial fan created by Salado and Little Salado Creeks. The two creeks created the fan as they left the steep slopes of the Diablo Mountains and their flow velocity diminished as they entered the much gentler slopes of the San Joaquin Valley. This drop in velocity allowed the coarser, heavier sediments to settle out and formed the creeks' alluvial fan at the foot of the Diablos. The two streams carried finer, lighter sediments further downstream to the flood plain of the San Joaquin River.

The coarser, heavier sediments of the alluvial fan became the parent material for the Ensalado soils found in the proposed viticultural area.

##### *Soils*

The Ensalado series soils, formerly known as the Salado series, are unique to west Stanislaus County, California, according to a 2001 publication by soil scientist, vineyard consultant, and Salado Creek petition author Stan Grant. He further notes that this soil series occurs only along three streams in the area, Salado, Orestimba, and Del Puerto Creeks, and accounts for only 0.17 percent of the soils covering western Stanislaus County. Grant notes in the petition that because of their lower flow velocity, Salado Creek and Little Salado Creek dropped large quantities of sediment immediately after leaving the Diablo Mountains. This produced the large alluvial fan upon which the proposed viticultural area sits. The petition adds that Orestimba and Del Puerto Creeks, with their higher flow rates, took their sediments further to the east, producing smaller alluvial fans at the foot of the mountains.

The petition explains that the Ensalado soils are very deep, with a root depth of 60 inches or more. They are well drained, with parent material from sandstone and shale, and have little organic matter. The petition adds that they have little layer development due to the dry, warm climate, and are calcareous. The petition notes that the soils lack of layering results in soil properties that are generally consistent with depth, including water permeability and soil moisture. Classified as coarse-loamy, this soil generally consists of a thin layer of fine sandy loam over deep loam subsoil. According to the petition, other soils on the alluvial fan are older than the Ensalado soils and lie beyond the courses of Salado and Little Salado Creeks.

##### *Climate*

The proposed Salado Creek viticultural area lies on the west side of the San Joaquin Valley at the foot of the Diablo Mountain range. These Coast Range mountains shield the proposed viticultural area from the maritime influences of the Pacific Ocean. The petitioner states that the area is in a "thermal belt," which covers the alluvial fans found along the western rim of the valley in Stanislaus County. Consistent breezes from the north, which cool the area in the summer, characterize this thermal belt, according to the petition. It adds that in the winter, the thermal belt has less fog and

warmer temperatures than the valley's lower elevations along the San Joaquin River. The petition also notes that the thermal belt allows growers to raise citrus crops within it, but nowhere else in the northern San Joaquin Valley.

The petition included a recent comparison of weather information gathered from stations north, within, and south of the proposed viticultural area. The petition states that the proposed Salado Creek viticultural area has warmer minimum temperatures and cooler maximum temperatures, for a milder climate, than the surrounding areas. Minimum temperatures are higher in May, June, and August through October. Maximum temperatures are cooler August through December. These periods of comparatively mild temperatures correspond to the ripening season for wine grapes, according to the petitioner.

Solar radiation statistics collected by the petitioner in 2001 indicate less solar influence between August and October in the proposed viticultural area, creating a slower ripening period for the grapes. The petition also comments that the proposed area's low humidity, high average wind speeds, and high average solar radiation create a high rate of moisture evaporation from the area's plants and soil. The petition explains that this slow ripening, along with the continuing high rate of evaporation for plants and soil, have a positive effect on the quality of grapes grown in the area.

#### *Boundary Description*

The 2,940-acre proposed Salado Creek viticultural area is in western Stanislaus County, just southwest of the town of Patterson. It lies within a portion of a blunt-ended triangle formed by Interstate 5, Sperry Road, Davis Road, and Fink Road. The proposed area's boundaries are described in detail in the proposed regulation shown below.

#### *Maps*

The proposed boundaries of the Salado Creek viticultural area are shown on two USGS maps: the Patterson, California Quadrangle—Stanislaus Co., 7.5 Minute Series, edition of 1953; photorevised 1971, photoinspected 1978; and the Crows Landing, California Quadrangle—Stanislaus Co., 7.5 Minute Series, edition of 1952, photorevised 1980.

#### **Public Participation**

##### *Comments Sought*

We request comments from anyone interested. Please support your comments with specific information about the proposed area's name,

growing conditions, or boundaries. All comments must include your name and mailing address, reference this notice number, and be legible and written in language acceptable for public disclosure.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

##### *Confidentiality*

We do not recognize any submitted material as confidential. All comments are part of the public record and subject to disclosure. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

##### *Submitting Comments*

You may submit comments in any of four ways:

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *By 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 five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- *By 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.
- *By 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 "Send comments via e-mail" under this notice number.

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 a public hearing will be held.

##### *Disclosure*

You may view copies of the petition, the proposed regulation, the appropriate maps, and any comments received by appointment in our reference library, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact us at the above address or telephone 202-

927-8210 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and the comments received 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 our reference library. To access the online copy of this notice, visit <http://www.ttb.gov/alcohol/rules/index.htm> and select the "View Comments" link under this notice number to view the posted comments.

#### **Regulatory Analyses and Notices**

##### *Paperwork Reduction Act*

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

##### *Regulatory Flexibility Act*

We certify that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. 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**

The principal author of this document is N.A. Sutton, Regulations and Procedures Division (Oregon), Alcohol and Tobacco Tax and Trade Bureau.

#### **List of Subjects in 27 CFR Part 9**

Wine.

#### **Authority and Issuance**

For the reasons discussed in the preamble, we propose to amend Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, as follows:

#### **PART 9—AMERICAN VITICULTURAL AREAS**

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

**Authority:** 27 U.S.C. 205.

2. Subpart C is amended by adding § 9. \_\_\_\_ to read as follows:

### Subpart C—Approved American Viticultural Areas

#### § 9. Salado Creek.

(a) The name of the viticultural area described in this section is “Salado Creek”.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Salado Creek viticultural area are two 1:24,000 Scale USGS topographic maps. They are titled:

(1) Patterson, California Quadrangle,—Stanislaus Co., 7.5 Minute Series, edition of 1953; photorevised 1971, photoinspected 1978; and

(2) Crows Landing, California Quadrangle,—Stanislaus Co., 7.5 Minute Series, edition of 1952, photorevised 1980.

(c) *Boundaries.* The Salado Creek viticultural area is located in Stanislaus County, California, just southwest of the town of Patterson.

(1) Beginning on the Patterson Quadrangle map in section 19, T6S, R8E, at the junction of Fink Road and Interstate 5;

(2) Proceed northwest for 4.25 miles along Interstate Highway 5 to its junction with an unnamed light duty road in section 35, T5S, R7E (Patterson Quadrangle); then

(3) Following the unnamed light duty road for approximately 0.45 miles, go east across the California Aqueduct and then north, to the road's intersection with the light duty road atop the levee on the east bank of the Delta-Mendota Canal in section 35, T5S, R7E (Patterson Quadrangle); then

(4) Proceed southeast approximately 0.3 miles along the Delta-Mendota Canal levee road to its intersection with an unnamed unimproved road in section 35, T5S, R7E (Patterson Quadrangle); then

(5) Proceed north and then east on the unimproved road for approximately 0.4 mile to its intersection with Baldwin Road and continue east on Baldwin Road approximately one mile, crossing Salado Creek, to the road's intersection with Ward Avenue at the eastern boundary line of section 36, T5S, R7E (Patterson Quadrangle); then,

(6) Proceed north on Ward Avenue approximately 400 feet to its intersection with 2nd Lift drainage canal in section 31, T5S, R8E (Patterson Quadrangle); then

(7) Follow the 2nd Lift canal southeast approximately 0.75 miles to its intersection with Elfers Road in section 31, T5S, R8E (Patterson Quadrangle); then

(8) Proceed east on Elfers Road approximately for 0.45 miles, crossing onto the Crows Landing map, to its

intersection with an unnamed, unimproved road on the south side of Elfers Road that also marks the western boundary of section 6, T6S, R8E (Crows Landing Quadrangle); then

(9) Proceed straight south on the unimproved road approximately one mile to its intersection with Marshall Road in section 6, T6S, R8E (Crows Landing Quadrangle); then

(10) Follow Marshall Road straight west 1.1 miles, crossing onto the USGS Patterson map, to its intersection with Ward Avenue in section 6, T6S, R8E (Patterson Quadrangle); then

(11) Proceed south 1.65 miles on Ward Avenue to its intersection with the California Aqueduct, then continue generally south approximately 1.4 miles along the aqueduct to its intersection with Fink Road in section 19, T6S, R8E (Patterson Quadrangle); then

(12) Follow Fink Road northwest for approximately 0.5 miles, returning to the point of beginning at Interstate Highway 5 in section 19, T6S, R8E (Patterson Quadrangle).

Signed: September 25, 2003.

**Arthur J. Libertucci,**  
*Administrator.*

[FR Doc. 03-27317 Filed 10-29-03; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD05-03-132]

RIN 1625-AA08

#### Special Local Regulations for Marine Events; Spa Creek, Annapolis, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** On October 10, 2003, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** that requested comments on a proposed temporary special local regulation during the “International Tug-of-War”, a marine event to be held November 8, 2003, over the waters of Spa Creek between Eastport and Annapolis, Maryland. This document contains a correction to the date in the Dates section of that notice of proposed rulemaking.

**DATES:** This correction is effective October 30, 2003. The comment period for the proposed temporary rule ends October 30, 2003.

**ADDRESSES:** You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398-6203. The Auxiliary and Recreational Boating Safety Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** S.L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398-6204.

**SUPPLEMENTARY INFORMATION:** On October 10, 2003, the Coast Guard published a notice of proposed rulemaking entitled “Special Local Regulations for Marine Events; Spa Creek, Annapolis, MD” in the **Federal Register** (68 FR 58640). While the preamble referred to a 20-day comment period (68 FR 58640) and the event was described as being scheduled for November 8, 2003 (68 FR 58641), the date in the Dates section reflected a 30-day comment period. That date must now be corrected to reflect that comments are due on or before October 30, 2003.

In the notice of proposed rulemaking FR Doc. 03-25680 published on October 10, 2003 (68 FR 58640), make the following correction:

On page 58640, in the third column, on line 6, correct “November 10” to read “October 30”.

Dated: October 17, 2003.

**Ben R. Thomason, III,**

*Captain, Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 03-27287 Filed 10-29-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF EDUCATION

### 34 CFR Part 75

RIN 1890-AA09

#### Direct Grant Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend regulations governing the