

| From | To | Changeover points | |
|---|---------------------------|-------------------|-------------|
| | | Distance | From |
| § 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS Airway segment V-328 Is Amended To Add Changeover Point | | | |
| JACKSON, WY VOR/DME | Big Piney VOR/DME | 20 | Jackson |
| V-330Is Amended To Add Changeover Point | | | |
| IDAHO FALLS, ID VOR/DME | Jackson, WY VOR/DME | 48 | Idaho Falls |
| V-465Is Amended To Add Changeover Point | | | |
| MALAD CITY, ID VOR/DME | Jackson, WY VOR/DME | 63 | Malad CITY |
| V-520Is Amended To Add Changeover Point | | | |
| DUBOIS, ID VORTAC | Jackson, WY VOR/DME | 60 | Dubois |

[FR Doc. 04-14629 Filed 6-28-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-13; Notice No. 20]

RIN 1513-AA69

Establishment of Salado Creek Viticultural Area (2003R-025P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Salado Creek viticultural area in western Stanislaus County, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 6660 Delmonico Dr., #D422, Colorado Springs, CO 80919; 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 the Act's provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

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. The establishment of viticultural areas allows the identification of regions where a given quality, reputation, or other characteristics of the wine is essentially attributable 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

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 relating to the geographical features, such as climate, soils, elevation, physical features, etc., that distinguish the proposed viticultural area 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.

A petition requesting the modification of an established viticultural area must include information, evidence, and maps appropriate to support the requested change(s).

Impact on Current Wine Labels

Under our part 4 regulations, State, county, and viticultural area names have viticultural significance. Part 4 also prohibits the use of a brand name or other label reference with viticultural significance on a wine unless the wine meets the appellation of origin requirements for the named geographic area.

With the establishment of this viticultural area, wine bottlers using "Salado Creek" in a brand name, including trademarks, or in another label reference, must ensure that the product is 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 if a wine in this category bears a brand name that was used as a brand name on a label approved prior to

July 7, 1986. See 27 CFR 4.39(i) for details.

Salado Creek Petition

In 2002, Stan Grant of Progressive Viticulture filed a petition on behalf of Fred Vogel of the Sunflower Ranch Company in Patterson, California, proposing to establish the "Salado Creek" viticultural area in western Stanislaus County, California. The 2,940-acre viticultural area, which had 44 acres of vineyards in 2002, 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 Salado Creek 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 viticultural area and shield it from the Pacific Ocean's marine influence. Salado Creek flows from the mountains through the viticultural area, while Little Salado Creek touches its southern tip.

Name Evidence

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. The names "Salado" and "Salado Creek" continue to be used in modern times and 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 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 viticultural area and continues west and north of the town of Patterson.

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

The Salado Creek Ranch, known for its walnuts, is within the established boundaries. 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 local irrigation district was previously known as the Salado Irrigation District.

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 waters from Salado Creek and Little Salado Creek have 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 are unique to western Stanislaus County. The Salado Creek viticultural area boundaries, which are on this alluvial fan, generally coincide with the extent of the Ensalado soil series.

Distinguishing Features

Topography

The 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 viticultural area is between 125 and 340 feet above sea level and generally flat with a gentle downward slope to the northeast, toward the San Joaquin River. A number of man-made canals, ditches, and drains cross the area's boundary. The California Aqueduct and the Delta-Mendota Canal, for example, flow from the northwest to the southeast across the Salado Creek viticultural area.

Salado Creek is the major natural watercourse for the Salado Creek viticultural area. As 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 from the viticultural area and then east around the heart of Patterson. Finally, Salado Creek 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 viticultural 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 viticultural area, south of Patterson.

The Salado Creek viticultural 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 where 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 within the viticultural area boundaries.

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. Mr. 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 Salado Creek viticultural area sits. The 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 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. They have limited layer development due to the dry, warm climate, and are calcareous. Classified as coarse-loamy, these soils generally consist of a thin layer of fine sandy loam over deep loam subsoil. Other soils on the alluvial fan, older than the Ensalado soils, lie beyond the

courses of Salado and Little Salado Creeks.

Climate

The Salado Creek viticultural area lies on the west side of the San Joaquin Valley at the foot of the Diablo Mountains. This range shields the area from the maritime influences of the Pacific Ocean. Also, the Salado Creek area is in a "thermal belt," which covers the alluvial fans 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. In the winter it has less fog and warmer temperatures than the valley's lower elevations along the San Joaquin River.

The petition included a recent comparison of weather information gathered from stations north, within, and south of the Salado Creek viticultural area. It 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.

Solar radiation statistics for 2001 indicate less solar influence between August and October in the viticultural area, creating a slower ripening period for the grapes. The area's low humidity, high average wind speeds, and high average solar radiation create a high rate of moisture evaporation from the plants and soil. This slow ripening, and the continuing high rate of evaporation for plants and soil, has a positive effect on the quality of grapes grown in the area.

Notice of Proposed Rulemaking and TTB Finding

TTB published a notice of proposed rulemaking regarding the establishment of the Salado Creek viticultural area in the October 30, 2003, **Federal Register** as Notice No. 20 (68 FR 61776). In that notice, TTB requested comments by December 29, 2003. No comments were received. Under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we find that the submitted evidence supports the proposed viticultural area's establishment. Therefore, we establish the "Salado Creek" viticultural area effective 60-days from this document's publication date.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a

substantial number of small entities. This rule imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is 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 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, Alcohol and Tobacco Tax and Trade Bureau.

List of Subjects in 27 CFR Part 9

Wine.

The Final Rule

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9 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.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.163 to read as follows:

§ 9.163 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. The Salado Creek viticultural area boundary is as follows:

(1) Beginning on the Patterson Quadrangle map, section 19, T6S, R8E, at the intersection of Interstate Highway 5 and Fink Road, proceed northwest for

4.25 miles along Interstate 5 to its junction with an unnamed light duty road in section 35, T5S, R7E; then

(2) Follow the unnamed light duty road for approximately 0.45 miles, going 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; then

(3) 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; then

(4) 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 Baldwin Road's intersection with Ward Avenue at the eastern boundary line of section 36, T5S, R7E; then,

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

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

(7) Proceed east on Elfers Road approximately for 0.45 miles, crossing onto the Crows Landing Quadrangle 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; then

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

(9) 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; then

(10) 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; then

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

Signed: March 15, 2004.

Arthur J. Libertucci,
Administrator.

Approved: April 27, 2004.

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

[FR Doc. 04-14651 Filed 6-28-04; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-14; Re: Notice No. 8]

RIN 1513-AA28

San Bernabe and San Lucas Viticulural Areas (2001R-170P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the San Bernabe viticultural area and realigns the existing San Lucas viticultural area. Both viticultural areas are within the Monterey viticultural area in Monterey County, California, and within California's multi-county Central Coast viticultural area. The establishment of viticultural areas allows vintners to describe more accurately where their wines come from and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 6660 Delmonico Dr., #D422, Colorado Springs, CO 80919; 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 the Act's provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

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. The establishment of viticultural areas allows the identification of regions where a given quality, reputation, or other characteristics of the wine is essentially attributable to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

Requirements

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 relating to the geographical features, such as climate, soils, elevation, physical features, etc., that distinguish the proposed area 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 map(s) with the boundaries prominently marked.

A petition requesting the modification of an established viticultural area must include the appropriate evidence and maps as described above to support the requested modification(s).

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that suggests an origin other than the wine's true place of origin. With certain exceptions, the regulations also prohibit

the use of brand names of viticultural significance, such as the name of a State, county, or viticultural area, unless the wine meets the appellation of origin requirements for the named geographic area.

With the establishment of the "San Bernabe" viticultural area, its name, like that of the existing "San Lucas" viticultural area, becomes a term of viticultural significance. Wine bottlers using "San Bernabe" or "San Lucas" in a brand name, including a trademark, or in another label reference, must ensure the product is eligible to use that viticultural area's name as an appellation of origin.

For a wine to be eligible to use a viticultural area name listed in part 9 of the TTB regulations as an appellation of origin, at least 85 percent of the grapes used to make the wine must have been grown within that viticultural area. If the wine is not eligible to use the viticultural area name and that name appears in the wine's brand name or in another label reference, the label is not in compliance and the bottler must change the brand name or other label reference and obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i) for details.

San Bernabe and San Lucas Petitions

We received two petitions from Claude Hoover of Delicato Family Vineyards, Monterey, California, proposing the establishment of a new viticultural area to be named San Bernabe, and the realignment of the adjacent, established San Lucas viticultural area (27 CFR 9.56). Both viticultural areas are located in the Salinas Valley in central Monterey County, California. The two areas are within the Monterey viticultural area (27 CFR 9.98) and the multi-county Central Coast viticultural area (27 CFR 9.75).

The San Bernabe viticultural area encompasses 24,796 acres of predominantly rolling hills with sandy soils and 7,636 acres of vineyards. The realignment of the San Lucas viticultural area transfers 1,281 acres of rolling, sandy land from the northwestern San Lucas area to the southern San Bernabe area. This realignment avoids splitting a large vineyard between the two viticultural areas, prevents overlapping boundary lines between the two viticultural areas, and creates one common boundary line between the San Bernabe viticultural area and the San Lucas viticultural area.