

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

RIN 1512-AC60

[TTB Notice No. 8]**San Bernabe and San Lucas Viticultural Areas (2001R-170P)****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 the establishment of the San Bernabe viticultural area (the proposed area) and the realignment of the adjacent San Lucas viticultural area. Both viticultural areas exist entirely within the Central Coast and Monterey viticultural areas and within Monterey County, California. The proposed San Bernabe viticultural area consists of 24,796 acres that the petitioner states are predominantly rolling hills of sandy soils. The realignment would transfer 1,281 acres of rolling, sandy land from the northwest San Lucas area to the south San Bernabe area. This proposed realignment would avoid splitting a large vineyard between two viticultural areas and prevent overlapping of viticultural areas. Claude Hoover of Delicato Family Vineyards, Monterey, California, filed both petitions.

DATES: We must receive written comments by July 14, 2003.

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

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, PO Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 8);
- 202-927-8525 (facsimile);
- 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> or by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone 202-927-7890.

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 (California), TTB,

PO Box 4644, Petaluma, California 94955-4644; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:**TTB Background***What Is the Impact of the Homeland Security Act on Rulemaking?*

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of wine labeling, including viticultural area designations, is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

Background on Viticultural Areas*What Is TTB's Authority To Establish a Viticultural Area?*

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 deceptive information on such labels. The FAA Act also authorizes TTB to issue regulations to carry out the Act's provisions.

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.

What Is the Definition of an American Viticultural Area?

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of wine made from grapes grown in an area to its geographical origin.

What Is Required To Establish a Viticultural Area?

Section 4.25a(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 of local and/or national name recognition of the proposed viticultural area as the area specified in the petition;
- Historical or current evidence that the proposed viticultural area's boundaries are as specified in the petition;
- Evidence of geographical characteristics, such as climate, soil, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features reflected on United States Geological Survey (USGS) approved maps of the largest applicable scale; and
- A copy (or copies) of the USGS-approved map(s) with the boundaries prominently marked.

Will This Proposal Impact on Current Wine Labels?

If this proposed viticultural area is established, bottlers who use brand names like the name of the viticultural area may be affected. If you do use a brand name like San Bernabe, you must ensure that your existing products are eligible to use the name of the viticultural area 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.

If the wine is not eligible to use the appellation, you must change the brand name of that wine and obtain approval of a new label. Different rules apply if you label a wine in this category with a label approved before July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, where the name of a viticultural area is presented on a wine label in a context other than as the claimed appellation of origin, then the use of such a viticultural area name is subject to the general prohibitions against misleading representation in part 4 of the regulations.

San Bernabe and San Lucas Petitions

We received two petitions proposing (1) the establishment of a new viticultural area to be named San Bernabe and (2) a realignment of the adjacent, established San Lucas viticultural area. Both areas are located in central Monterey County, California. The proposed San Bernabe viticultural area encompasses 24,796 acres, of which 7,636 acres are vineyard. The petitioned realignment of the San Lucas viticultural area would transfer 1,281 acres to the proposed San Bernabe