

1. Arla Foods Ingredients amba, "Petition to Amend the Regulation for 21 CFR Sec. 101.80 to Authorize a Noncariogenicity Dental Health Claim for D-tagatose," CP-1, Docket No. 02P-0177, January 9, 2002.

■ Accordingly, the interim final rule amending 21 CFR 101.80 that was published in the **Federal Register** of December 2, 2002 (67 FR 71461), is adopted as a final rule without change.

Dated: June 30, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[TTB T.D.-3; Re: Notice No. 957]

RIN 1512-AC70

Seneca Lake Viticultural Area (99R-260P)

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

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision establishes the "Seneca Lake" viticultural area located in upstate New York. The Seneca Lake viticultural area encompasses about 204,600 acres of land surrounding Seneca Lake within the established Finger Lakes viticultural area. We take this action under the authority of the Federal Alcohol Administration Act and our wine labeling and advertising regulations.

EFFECTIVE DATE: This final rule is effective on September 2, 2003.

FOR FURTHER INFORMATION CONTACT: Kristy Colón, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 650 Massachusetts Avenue, NW., Washington, DC 20226; (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

What Is Treasury's and 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 and prohibits the use of deceptive information on such labels. The FAA Act also authorizes the Secretary of the Treasury 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. The regulations allow the name of an approved viticultural area to be used as an appellation 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?

Section 4.25a(e)(1), title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have 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 is intended to help wineries to accurately describe the origin of their wines to consumers and to help consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement of the wine produced there.

What Is Required To Establish a Viticultural Area?

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person 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 United States Geological Survey (USGS)-approved maps; and
- A copy of the appropriate USGS-approved map(s) with the boundaries prominently marked.

Impact on Current Wine Labels

With the establishment of this viticultural area, bottlers who use brand names like Seneca Lake may be affected.

If you fall in this category, 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 for the appellation, you must change the brand name and obtain approval of a new label. Different rules apply if you label a wine in this category with a label approved prior to July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, if you use the viticultural area name on a wine label in a context other than appellation of origin, the general prohibitions against misleading representation in part 4 of the regulations apply.

Rulemaking Proceeding

ATF-TTB Transition

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 (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice. The regulation and taxation of alcohol beverages remains a function of the Department of the Treasury and is the responsibility of TTB. References to the former ATF and the new TTB in this document reflect the time frame, before or after January 24, 2003.

Seneca Lake Petition

ATF received a petition from Ms. Beverly Stamp of Lakewood Vineyards in Watkins Glen, New York, proposing to establish the "Seneca Lake" viticultural area. The petitioned area included portions of Schuyler, Yates, Ontario, and Seneca counties in upstate New York and covers approximately 204,600 acres of primarily rural agricultural and forestland. Of that total, 3,756 acres are planted to grapes. There are currently 33 wineries on or near Seneca Lake, one of New York's eleven Finger Lakes. The Cayuga Lake viticultural area lies to the east of the area, and both are entirely within the established Finger Lakes viticultural area.

Notice of Proposed Rulemaking

ATF published a notice of proposed rulemaking regarding the Seneca Lake viticultural area in the October 21, 2002, **Federal Register** as Notice No. 957 (67 FR 64575). In that notice, ATF requested comments by December 21, 2002, from