

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 (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