

(a)(1) of this section, the date 6 months after the expiration of the extension.

(b) *Limits on amount of credit or refund not applicable.* In the case of a claim for credit or refund of any income tax overpayment attributable to any partnership item of a federally registered partnership, the limitations provided in section 6511(b) (2) and (c) shall not apply if the claim is filed within the period described in paragraph (a) of this section.

(c) *Special periods of limitation with respect to carryback of net operating loss, capital loss, etc.* The provisions of section 6511(g) must also be taken into account in applying the various special periods of limitation prescribed in section 6511(d). Thus, to the extent that a carryback is attributable to a partnership item of a federally registered partnership, the period for filing a claim for credit or refund of an overpayment attributable to that carryback shall not expire before the date determined under paragraph (a) of this section with respect to the partnership taxable year in which the item arose.

(d) *Definitions.* For purposes of this section, the terms "partnership item" and "federally registered partnership" have the same meaning as such terms have when used in section 6501(o), § 301.6501(o)-2(c), and § 301.6501(o)-3.

(e) *Effective date.* The provisions of this section are effective generally for partnership items arising in partnership taxable years beginning after December 31, 1978 and before September 4, 1982. This section shall not apply, however, to any partnership taxable year with respect to which the amendments made to Code section 6511(g) by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 are effective. See section 407(a)(3) of that Act.

[FR Doc. 83-10046 Filed 4-14-83; 8:45 am]  
BILLING CODE 4830-01-M

## Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Part 9

[T.D. ATF-131; Reference Notice No. 431]

#### Arroyo Seco Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes an American viticultural area in Monterey County, California, known as "Arroyo Seco." The establishment of viticultural areas and the use of viticultural area names in wine labeling and advertising

will allow wineries to designate the specific grape-growing area where their wines come from, and will help consumers to identify the wine they purchase.

**EFFECTIVE DATE:** May 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

#### SUPPLEMENTARY INFORMATION:

##### Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Approved American viticultural areas are listed in 27 CFR Part 9.

Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

ATF was petitioned by the Arroyo Seco Winegrowers and Vintners, an association composed of grapegrowers and vintners with vineyards in the Arroyo Seco area, to establish a viticultural area within Monterey County, California known as "Arroyo Seco." In response to their petition, ATF published a notice of proposed rulemaking, Notice No. 431, in the *Federal Register* on November 3, 1982 [47 FR 49860] proposing the establishment of the Arroyo Seco viticultural area.

##### General Description of Arroyo Seco

The Arroyo Seco viticultural area is a triangular shaped area adjacent to the Arroyo Seco Creek which flows into the Salinas River near Soledad. The total area comprising the Arroyo Seco viticultural area is 28.5 square miles or 18,240 acres. Within the area there are about 8,500 acres of vineyards and two bonded wineries.

##### Supporting Evidence

*Name.* Arroyo Seco is the name given to a land grant and rancho existing in the vicinity of the viticultural area. Arroyo Seco, meaning "dry creek" is the name of the creek flowing through the viticultural area. Vineyards were first planted in this area in 1962 by Mirassou Sales, a San Jose Winery. In 1963, Wentle Brothers of Livermore, California,

planted vineyards along the Arroyo Seco Creek which are known as Wentle's Arroyo Seco Vineyards. Since 1963, many other vineyards have been planted in this region and Arroyo Seco has been used in numerous magazines, newspapers, and wine publications in describing wines from this region.

*Geographical features.* Topography distinguishes the Arroyo Seco viticultural area from surrounding areas. This area consists of sloping bench land surrounding the Arroyo Seco Creek. The highest elevations of over 600' occur to the west on the Sierra de Salinas, foothills of the Santa Lucas Mountains. A ridgeline of between 500' and 300' in elevation separates Arroyo Seco from areas immediately to the south. From these elevations, the area slopes gradually downward to the lowest points of 180' elevation on the north along the Arroyo Seco Creek, and 220' elevation on the west along the Salinas River. It is this sloping bench land high above the Salinas River which provides adequate drainage and freedom from frost for area vineyards.

*Climate.* The climate of the Arroyo Seco area is unique in amount of rainfall, temperature range, and the variability of the winds.

The major climatic influences are the Pacific Ocean and Monterey Bay. To the west, the Santa Lucas Mountains block damaging Pacific rains from the area. Winds off Monterey Bay, however, blow down the Salinas River, cooling the valley and providing a moderate climate. The cooling effects of the wind make the northern Salinas Valley quite cold. Gonzales is classified as Region I on the scale developed by Winkler and Amerine to measure degree days, with 2350 degree days. In the Arroyo Seco area, the climate is considered Region II. Soledad, to the immediate north, registers 2880 degree days while Wentle's Arroyo Seco Vineyards average between 1875 and 2250 degree days. The cooling effect of the wind diminishes further south. King City averages 3150 degree days, placing it in Region III while San Miguel is classified as Region IV. The growing season is approximately 245 days.

Rainfall is sparse in the Arroyo Seco viticultural area. Soledad averages just 9.5 inches per year, less than received to the north where Salinas averages 13.7 inches and Gonzales 12.3 inches per year. Because of the sparse rainfall, all vineyards within the Arroyo Seco region irrigate, using water from Arroyo Seco Creek rather than from the Salinas River.

*Soils.* The soils in the Arroyo Seco area consist of a series of gravelly and

fine sandy loams well suited to the cultivation of grapes. The viticultural area is an alluvial fan formed by well drained soils with slopes ranging from 0 to 9 percent. Principal soil series include Mocho, Lockwood, Arroyo Seco, Rincon, Elder, and Chular. The prominent soils, Chular and Arroyo Seco, are coarse sandy loams derived from decomposed granite washed down from the Gavilan Mountains. These soils are gravelly and low in lime content similar to the vineyards in the Medoc and Graves districts of Bordeaux, and to the better vineyards in the Palatinate.

**Viticultural history.** Wine grapes were first planted in the vicinity of Arroyo Seco between 1830 and 1840 at the nearby Mission Soledad. Winegrowing, however, never became important in Monterey County because it was considered a "poor area" for viticulture. Strong winds off Monterey Bay and the arid climate of the Salinas River Valley deterred the planting of wine grapes. During Prohibition, only 400 acres of vineyards survived in Monterey County, and this acreage was halved in the years following Repeal.

It was not until the early 1960's that vineyards were planted in the Arroyo Seco region. Three wineries, Paul Masson, Wentz Brothers, and Mirassou, feeling the effects of urbanization in Santa Clara and Alameda Counties, began searching for new areas in California in which to plant vineyards. These wineries noted the conclusion of a report prepared by professors Maynard Amerine and A. J. Winkler of the University of California. Their report concluded that Monterey County contained Region I and II climatic areas and was suited to the growing of premium quality grapes.

Acting on the recommendations contained within the Amerine-Winkler report, Paul Masson and Mirassou planted vineyards between Soledad and Greenfield in 1962, and in 1963 Wentz Bros. planted vineyards along the Arroyo Seco Creek west of Greenfield. The first wines were produced from Arroyo Seco grapes in 1966.

Since 1962, nearly 8,500 acres of premium varietal grapes have been planted in the Arroyo Seco viticultural area including Pinot Blanc, Riesling, Gewurztraminer, Chardonnay, Gamay, Cabernet Sauvignon, Petit Sirah, and Sauvignon Blanc.

#### No Comments Received

The notice of proposed rulemaking, Notice No. 431, contained a 45 day comment period. No comments were received during this comment period. Based on the information contained in

the petition, the Arroyo Seco viticultural area is established as proposed.

The exact boundaries of the Arroyo Seco viticultural area are described in the regulatory text of § 9.59, and are unchanged from those proposed.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This rule will allow the petitioner and other persons to use an appellation of origin, "Arroyo Seco," on wine labels and in wine advertising. This final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Compliance With Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Drafting Information

The principal author of this final rule is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

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

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

#### Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director is amending 27 CFR Part 9 as follows:

## PART 9—AMERICAN VITICULTURAL AREAS

**Paragraph 1.** The table of sections in 27 CFR Part 9 is amended by adding § 9.59. As amended, the table of sections reads as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*

9.59 Arroyo Seco.

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**Par. 2.** Subpart C is amended by adding § 9.59. As added, § 9.59 reads as follows:

#### § 9.59 Arroyo Seco.

(a) *Name.* The name of the viticultural area described in this section is "Arroyo Seco."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Arroyo Seco viticultural area are four U.S.G.S. quadrangle maps. They are entitled:

(1) "Greenfield, California," 7.5 minute series, edition of 1956;

(2) "Paraiso Springs, California," 7.5 minute series, edition of 1956;

(3) "Soledad, California," 7.5 minute series, edition of 1955; and

(4) "Sycamore Flat, California," 7.5 minute series, edition of 1956 (photoinspected 1972).

(c) *Boundaries.* The Arroyo Seco viticultural area is located in Monterey County, California. The beginning point is found on the "Sycamore Flat" U.S.G.S. map at the junction of Arroyo Seco Road and the Carmel Valley Road (indicated as the Jamesburg Road on the map).

(1) Then east following Arroyo Seco Road to the southwest corner of Section 22, T. 19 S., R. 5 E.

(2) Then east following the southern boundaries of Sections 22, 23, 24, 19, and 20 to the southeastern corner of Section 20, T. 19 S., R. 6 E.

(3) Then northeast in a straight line for approximately 1.3 miles to the summit of Pettits Peak.

(4) Then northeast in a straight line for approximately 1.8 miles to the point where the 400' contour line intersects the northern boundary of Section 14, T. 19 S., R. 6 E.

(5) Then east following the 400' contour line to a point immediately west of the Reservoir within the Posa de los Ositos Land Grant.

(6) Then following the ridge line in a northeasterly direction for approximately 7.5 miles to U.S. Highway 101 at the intersection of Underwood Road.

(7) Then east following Underwood Road to its intersection with the Posa de los Ositos Land Grant.

(8) Then north following the boundary of the Posa de los Ositos Land Grant to the west bank of the Salinas River.

(9) Then northwest following the west bank of the Salinas River to the southern boundary of Section 17, T. 18 S., R. 7 E.

(10) Then due west for approximately 2.0 miles following the southern boundary of Section 17, and continuing to U.S. Highway 101.

(11) Then following U.S. Highway 101 in a northwesterly direction to its intersection with Paraiso Road.

(12) Then south following Paraiso Road to the intersection with Clark Road.

(13) Then south in a straight line for approximately 1.8 miles to the northeast corner of Section 5, T. 19 S., R. 6 E.

(14) Then due south following the eastern boundaries of Sections 5, 8, and 17, to Arroyo Seco Road.

(15) Then southwest in a straight line for approximately 1.0 mile to Bench Mark 673.

(16) Then west in a straight line for approximately 1.8 miles to Bench Mark 649.

(17) Then northwest in a straight line for approximately 0.2 mile to the northeast corner of Section 23, T. 19 S., R. 5 E.

(18) Then west following the northern boundaries of Section 23 and 22 to the northwest corner of Section 22, T. 19 S., R. 5 E.

(19) Then south in a straight line for approximately 1.0 mile to the point of beginning.

Signed: March 21, 1983.

Stephen E. Higgins,  
Acting Director.

Approved: March 31, 1983.

David Q. Bates,  
Deputy Assistant Secretary (Operations).

[FR Doc. 83-10112 Filed 4-14-83; 8:45 am]

BILLING CODE 4810-31-M

## 27 CFR Part 9

[T.D. ATF-130; Reference Notice No. 400]

### Cole Ranch Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area in Mendocino County, California, named "Cole Ranch." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes that the establishment of "Cole Ranch" as a

viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate, and help consumers to better identify, the wines from this distinctive grape-growing area.

**EFFECTIVE DATE:** May 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Steve Simon at (202) 566-7626.

**SUPPLEMENTARY INFORMATION:**

#### Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas and the use of an approved viticultural area as an appellation of origin on wine labels and in wine advertisements. In 27 CFR 4.25a(e)(1) and 9.11, the term "viticultural area" is defined as a delimited, grape-growing region distinguishable by geographical features. In 27 CFR 4.25a(e)(2), procedures for proposing an American viticultural area are outlined. Those procedures allow any interested person to submit a petition for establishment of an American viticultural area.

In response to a petition from the proprietor of Cole Ranch in Ukiah, California, ATF published a notice of proposed rulemaking, Notice No. 400, in the *Federal Register* on December 4, 1981 (46 FR 59273), which proposed the "Cole Ranch" viticultural area in Mendocino County, California. ATF solicited public comment concerning the proposed area.

Only one comment was received in response to this notice: Fetzer Vineyards, Redwood Valley, California, which supported the proposal to establish "Cole Ranch" as a viticultural area. Fetzer Vineyards and several other wineries purchase grapes from this viticultural area. Both Fetzer Vineyards and Chateau St. Jean label their wines produced from these grapes with a "Cole Ranch" appellation. Other wineries which purchase grapes from the Cole Ranch vineyard are Parson's Creek Winery, Souverain Cellars, Navarro Winery, Husch Vineyards, Frei Brothers Winery and Dolan Vineyard. The information furnished by the petitioner and the supporting comment were sufficient for ATF to make a final decision concerning the establishment of "Cole Ranch" as a viticultural area.

#### Evidence of Name

The "Cole Ranch" viticultural area is located in a small, narrow mountain valley most of which is on the 500-acre ranch owned by the Cole family. The valley is approximately one mile in length and a half mile across at its

widest point. It contains approximately .150 acres of land. Small areas of this valley are owned by neighboring property owners whose statements, supporting the petition, were submitted to ATF by the petitioner. At least one of those other owners has enough land for potential commercial vineyard development. The only grape grower at present, however, is the Cole family. Vines were planted in 1973, and grapes were first harvested in 1975. Now there are 61 acres planted with Cabernet Sauvignon, Johannisberg Riesling, and Chardonnay grapes.

The small valley comprising this viticultural area has no name on a map. In viticultural circles, however, the area has become well-known by the name of "Cole Ranch," after the name of the property in which it primarily lies. As mentioned, several nationally marketed wines have had the designation "Cole Ranch" appear prominently on their labels. Various publications on wine production also refer to the area as "Cole Ranch" or "Cole Vineyard" and have given the name national exposure.

ATF has reservations about approving a viticultural area named after someone's private ranch or vineyard. Normally, it would not be best to designate (or appear to designate) a ranch or vineyard as a viticultural area, even if shown to be different from the surrounding area, as long as there is any other name by which the viticultural area is known. In the case of "Cole Ranch," however, there is no such other name. "Cole Ranch" meets the regulatory criteria for a viticultural area, and no one objected to the proposed name during the comment period.

#### Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2), a viticultural area must also possess geographical features which distinguish the viticultural features of the area from those of surrounding areas.

Evidence submitted by the petitioner shows that "Cole Ranch" is isolated by topography from other grape-growing areas and is extremely limited in size by both topography and soils. The area is a tiny valley surrounded by the steep mountains of the Coastal Ranges. The nearest other vineyard is 1½ miles away and 800 feet lower in elevation. The soils of the "Cole Ranch" viticultural area range from deep, gravelly clay loam to shallow, gravelly silty clay, and are distinguishable from the mountain soils of the immediately surrounding area.

AFT believes that the valley floor elevation of "Cole Ranch" at 1400 feet and its geographical location in a