

paragraphs (b) through (k) of this section and such other controls as the Commission determines to be essential for the control of and accounting for special nuclear material.

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7. A new § 70.60 is added to read as follows:

**§ 70.60 Nuclear material control and accounting for special nuclear material of low strategic significance.**

(a) General Performance Objectives. Each licensee who is authorized to possess more than one effective kilogram of special nuclear material of low strategic significance at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal or sealed sources, shall implement and maintain a Commission approved material control and accounting system that will achieve the following objectives:

(1) Detect the loss of a goal quantity or more of U-235 contained in special nuclear material; and

(2) Resolve indications of missing material, and aid in the investigation and recover of missing material.

(b) Implementation Dates. Each licensee subject to the requirements of paragraph (a) of this section shall:

(1) No later than 150 days after the effective date of these amendments, submit a fundamental nuclear material control plan describing how the requirements of paragraph (c) of this section will be met; and

(2) Within 300 days of the effective date of these amendments or 60 days after the plan submitted pursuant to paragraph (b)(1) of this section is approved, whichever is later, implement the approved plan.

(c) System Capabilities. To meet the general performance objectives of § 70.60(a), the material control and accounting system must include the capabilities described in paragraphs (c)(1) through (6) of this section. The licensee shall:

(1) Establish, document, and maintain a management structure which assures: clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures.

(2) Control total material control and accounting measurement error so that twice its standard deviation is less than the greater of 9 kilograms of U-235 or 0.25 percent of the active inventory, and assure that any measurement performed

under contract is controlled so that the licensee can satisfy this requirement.

(3) Except as required by Part 75 of this chapter, perform a physical inventory at least every 12 months and, within 2 months thereafter, reconcile and adjust the book inventory to the physical inventory and resolve, or report an inability to resolve, any inventory difference which is rejected by a statistical test which has a 90 percent power of detecting the loss of a goal quantity.

(4) Maintain current knowledge of items sufficient to locate any item within 14 days. Store and handle, or subsequently measure, items in a manner such that unauthorized removals of substantial quantities of material from items will be detected. Exempted are items containing less than 500 grams of U-235 up to a total of 50 kilograms of U-235, solutions with a concentration of less than 5 grams of U-235 per liter, and items of waste destined for burial or incineration.

(5) Resolve, on a shipment basis and, when required by Part 75 of this chapter, on a batch basis, shipper/receiver differences that exceed both twice its standard deviation and 500 grams of U-235.

(6) Independently assess the performance of the material control and accounting system at least every 24 months, and document management's action on prior assessment recommendations.

(d) Recordkeeping. Each licensee shall establish records that will demonstrate that the requirements of paragraph (c) of this section have been met and maintain records for at least 3 years unless a longer retention time is required by Part 75 of this chapter.

Dated at Washington, D.C. this 9th day of December, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

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BILLING CODE 7590-01-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[Notice No. 439]

#### El Dorado Viticultural Area

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to establish a viticultural area in El Dorado County of California to be known as "El Dorado." This proposal is based upon a petition submitted by the El Dorado Wine Grape Growers Association. ATF believes the establishment of viticultural area names and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will allow wineries to better designate the specific grape growing areas where their wines come from and will enable consumers to better identify the wines they purchase.

**DATE:** Written comments on this proposal must be received by January 28, 1983.

**ADDRESS:** Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, DC 20044-0385 [Notice No. 439].

Copies of the petition, the proposed regulations, the appropriate U.S.G.S. topographic maps, and any written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 ((202) 566-7626).

#### SUPPLEMENTARY INFORMATION:

##### Background

Regulations in 27 CFR Part 4 allow for the establishment of definite viticultural areas and for the use of an approved viticultural area as an appellation of origin on wine labels and in wine advertisements.

In 27 CFR 4.25(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. As required by regulation, the petition is to include—

(a) evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which

distinguish the viticultural features of the proposed area from surrounding areas;

(d) a description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) a copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

#### Petition

The El Dorado Wine Grape Growers Association in Camino, California, has petitioned ATF for the establishment of an American viticultural area to be named "El Dorado." This proposed American viticultural area is located within the El Dorado County, east of Sacramento, California; and it would cover approximately 125 square miles. There are 164 acres of vines bearing wine grapes, another 252 acres are planted but not yet bearing, and several acres are in the planning stage. Within the proposed "El Dorado" viticultural area, there are six bonded wineries with vineyards.

The grape varieties that have been planted include Barbera, Chardonnay, Chenin Blanc, White and Grey Reisling, Gewurtztraminer, Mission, Sauvignon Blanc, Cabernet Sauvignon, Semillon, Merlot, Petite Sirah, Syrah, and Zinfandel.

The petitioner submitted information that the proposed "El Dorado" viticultural area is distinguished from surrounding areas by historical reference, geographic and physical features, climate, and soil type as follows:

**Evidence of Name.** It is historically viewed that the discovery of gold in 1848—befitting its name "El Dorado" to connote a place of fabulous wealth and opportunity—brought viticulture and winemaking to the El Dorado County. Several places within El Dorado County carry the name—such as the towns of El Dorado and El Dorado Hills, El Dorado Hills Vineyard, Eldorado Vineyard and Winery in Camino, and the El Dorado National Forest.

By 1855, the *California Farmer* (November 9, 1855) reported about 3,000 vines in El Dorado County. In 1866, the *Alta California* (May 1866) printed an article praising El Dorado County as "undoubtedly the leading county in the Sierra wine business." The article mentioned vineyards in the areas of Placerville, Diamond Springs, Gold Hill, and the El Dorado Wine Company at El Dorado. All of these communities are located within the boundaries of the proposed viticultural area. By the end of

the decade, according to the 1860 census, about 800 acres of grapevines were known. According to Leon D. Adams in *The Wines of America*, El Dorado County had more vineyards than Sonoma and Napa Counties combined.<sup>1</sup>

By the mid 1860's, there were approximately 1½ million vines in the El Dorado County with a production of over 200,000 gallons of wine.

In 1884, the *San Francisco Merchant* (November 21, 1884) listed 11 growers and two wineries in the Coloma area, 14 growers and two wineries in the Diamond Springs area, a winery in Green Valley, seven vineyardists in Placerville, and three at Gold Hill. All of these communities are located within the proposed viticultural area. By 1888, the State Board of Equalization reported 1715 acres of grape vines. From this point forward, the production of wine dwindled in the area.

By 1922, there were only about 500 acres of wine grapes grown in the county. Most of the vineyards still in production were concentrated around the communities of Placerville, Shingle Springs, Latrobe, and Georgetown, all of which, except Latrobe, are located within the boundaries of the proposed area.

Numerous articles from newspaper and journals, submitted by the petitioner, show that "El Dorado" is locally known and that there is a growing interest nationally in the El Dorado County as a wine producing area.

**Evidence of Boundaries.** According to the petitioner, the boundaries of "El Dorado" include all known and potential grape growing areas within El Dorado County. Soil, climate and terrain limit the grape growing areas to between the 1,200-foot to 3,500-foot-elevation levels. The natural boundaries of El Dorado County—the North Fork of the American River, the Middle Fork of the American River, and the Rubicon River on the north, and the South Fork of the Cosumnes River on the south—serve as the northern and southern boundaries, respectively, of the proposed viticultural area. Range lines define the east and west boundaries and are more easily located on the maps than are the elevation contour lines.

**Evidence of Geographic Characteristics.** Historical data, in the petitioner's opinion, support the boundaries of the proposed viticultural area. The northern and southern boundaries are the same as those of the

El Dorado County. The eastern boundary represents the upper limit of any agricultural activity since the rocky and mountainous terrain and climate of the Sierra Nevada Mountains preclude any farming further east of the eastern boundary line. The market demand for particular winegrape varieties that are better suited for cooler regions support the proposed western boundary at the 1,200-foot elevation. There are no current vineyards of these grapes planted below the 1,200-foot elevation. Historical references to grape growing areas in El Dorado County are within the proposed boundaries.

Throughout the year the evenings and nights are cooled by breezes originating from the Sierra Nevada Mountains to the east. The proposed area has none of the winter fog that is typical of Great Central Valley and the coastal valleys of California. Average annual rainfall ranges from 33 to 45 inches varying with the elevation. Precipitation increases 3 to 4 inches for every 300-foot rise in elevation. The higher average elevation of "El Dorado," as opposed to the lower foothill areas, and the Central Valley guarantees it a more favorable growing climate as far as rainfall is concerned. Indian summer with cool nights and warm days extends the growing season into October. Little rainfall occurs until late October and November.

The "El Dorado" is located on the western slope of the central Sierra Nevada Mountains. It is dominated by steeply dipping, faulty and folded metamorphic rocks that have been intruded by igneous rocks. Overlying the bedrock in many places are mantels of river gravel and volcanic debris. The soils vary in texture and depth but are all formed from common magma materials which are residual (formed in place) and igneous in origin. In contrast, the soils in the lower foothill and Central Valley regions consist of a mixture of materials caused by erosion and are sedimentary (transported materials of ocean sediments and stream deposits).

Other characteristics of the soil also differentiate the area from its neighbors. The soil is acidic rather than alkaline which is common throughout California. Hardpans, claypans, and restricting layers are uncommon. Soil water drainage and infiltration rates are moderate to fast. In addition, high water table conditions which are unfavorable to grape growing are almost non-existent in the proposed "El Dorado" area.

**Description of Boundaries and U.S.G.S. Maps.** A description of the specific boundaries as well as a listing

<sup>1</sup> Leon D. Adams, *The Wines of America*, 2nd ed., Rev. (New York: McGraw-Hill Book Company, 1978) p. 421.

of the U.S.G.S. topographic maps, as proposed by the petitioner, are described in proposed § 9.61.

#### Issues on which Comments Are Requested

**Name of Proposed Viticultural Area.** The petitioner believes that the name "El Dorado" is the most appropriate name for the proposed viticultural area. The documentation submitted states that all the grape growing areas in the El Dorado County are included in the proposed area. In addition, while most of the grapes grown in the proposed area are crushed by its own wineries, other wineries in California also use grapes from the area and market their wines with the El Dorado County appellation. ATF is concerned, therefore, that the close similarity between the county appellation and the proposed viticultural area appellation may confuse and mislead the consumer. By regulation, the difference between the two appellations is the percentage of wine derived from the grapes grown in the area of the appellation designated. Section 4.25a(b)(1) states that, for a wine bearing the name of a county appellation, at least 75 percent of the wine be derived from grapes grown within the appellation area indicated. Section 4.25a(e)(3) states that, for a wine to be labeled with a viticultural area appellation, not less than 85 percent of the wine must be derived from grapes grown within the boundaries of the viticultural area.

ATF would like to know whether consumers would be confused by the use of "El Dorado" as a designated appellation because of its similarity with the county appellation and of the difference between percentages of wine required of each—85 percent and 75 percent, respectively. Should the name "El Dorado" be changed so that it is different from the county appellation?

**Viticultural Area Size.** ATF is also requesting comments regarding the size of the area. ATF is concerned that the size of the proposed area may need to be reflective of the amount of acreage of grapes planted. ATF is requesting comments on whether or not the 125 square miles of the proposed viticultural area is too large an area in relation to the 416 acres planted. Information on where the existent grape growing areas are located would be helpful to determine whether or not the size of the proposed viticultural area could be compressed and still have geographical features which are distinguishable from the surrounding area.

**National Forest.** ATF has observed that numerous national forest parcels exist within the proposed "El Dorado" boundaries. If a vineyardist or

winemaker has permission from the Department of Agriculture to grow winegrapes in the El Dorado National Forest, ATF would be interested in such information so that these national forest areas may be considered for possible inclusion into the proposed "El Dorado" viticultural area

#### Public Participation

ATF requests all interested persons to submit comments regarding this proposed viticultural area. Although this notice proposes possible boundaries for the "El Dorado" viticultural area, comments concerning other possible boundaries for this viticultural area will be considered as well.

All substantive comments will be considered prior to the issuance of any final rule. Comments are not considered confidential. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed notice should make a request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine whether a public hearing will be held.

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

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

#### Executive Order 12291

It has been determined that this notice of proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of \$100 million dollars or more; it will not result in a major increase in cost 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 the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act to issue and make available initial and final regulatory flexibility analyses (5 U.S.C. 603, 604)

are not applicable to this notice of proposed rulemaking because the proposal, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact or compliance burden will be on the affected small entities in the proposed viticultural area. However, from the information available at present on the proposed viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact or compliance burden on a substantial number of small entities.

#### Drafting Information

The author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. Other personnel of ATF and offices of the Department of the Treasury participated in the development of this notice of proposed rulemaking, both as to matters of substance and style.

#### Authority and Issuance

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), ATF proposes to amend 27 CFR Part 9 as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add § 9.61 as follows:

##### Subpart C—Approved American Viticultural Areas

*	*	*	*	*
Sec.				
9.61	El Dorado.			
*	*	*	*	*

##### Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.61 to read as follows:

##### § 9.61 El Dorado.

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

(b) *Approved maps.* The approved U.S.G.S. topographic maps (7.5 series; quadrangles) showing the boundaries of the El Dorado viticultural area, including quadrangles showing the area within the boundaries, are as follows:

- (1) "Pilot Hill, California," 1954 (photorevised 1973);
- (2) "Auburn, California," 1953 (photorevised 1973);

- (3) "Greenwood, California," 1949 (photorevised 1973);
- (4) "Georgetown, California," 1949 (photorevised 1973);
- (5) "Foresthill, California," 1949 (photorevised 1973);
- (6) "Michigan Bluff, California," 1952 (photorevised 1973);
- (7) "Tunnel Hill, California," 1950 (photorevised 1973);
- (8) "Slate Mountain, California," 1950 (photorevised 1973);
- (9) "Pollock Pine, California," 1950 (photorevised 1973);
- (10) "Stump Spring, California," 1951 (photorevised 1973);
- (11) "Caldor, California," 1951 (photorevised 1973);
- (12) "Omo Ranch, California," 1952 (photorevised 1973);
- (13) "Aukum, California," 1952 (photorevised 1973);
- (14) "Fiddletown, California," 1949;
- (15) "Latrobe, California," 1949 (photorevised 1973);
- (16) "Shingle Springs, California," 1949;
- (17) "Coloma, California," 1949 (photorevised 1973);
- (18) "Garden Valley, California," 1949 (photorevised 1973);
- (19) "Placerville, California," 1949 (photorevised 1973);
- (20) "Camino, California," 1952 (photorevised 1973);
- (21) "Sly Park, California," 1952 (photorevised 1973);
- (c) *Boundaries.* The boundaries of the El Dorado viticultural area which is located in El Dorado County, California, are as follows:
- (1) The beginning point of the boundaries is the intersection of North Fork of the American River (also the boundary line between El Dorado and Placer Counties) and the township line "T. 11 N./12 N." ("Pilot Hill" Quadrangle);
- (2) Thence northeast along the North Fork of the American River to its divergence with the Middle Fork of the American River, continuing then, following the Middle Fork of the American River to its intersection with the Rubicon River which continues as the boundary line between El Dorado and Placer Counties ("Auburn," "Greenwood," "Georgetown," "Foresthill," and "Michigan Bluff" Quadrangles);
- (3) Thence southeast along the Rubicon River to its intersection with the range line "R. 11 E./R. 12 E." ("Tunnel Hill" Quadrangle);
- (4) Thence south along the range line through T. 13 N. and T. 12 N., to its intersection with the township line "T. 12 N./T. 11 N." ("Tunnel Hill" and "Slate Mountain" Quadrangles);

(5) Thence east along the range line to its intersection with the range line "R. 12 E./R. 13 E." ("Slate Mountains" and "Pollock Pines" Quadrangles);

(6) Thence south along the range line to its intersection with the township line "T. 11 N./T. 10 N." ("Pollock Pine" Quadrangle);

(7) Thence east along the township line to its intersection with the range line "R. 13 E./R. 14 E." ("Pollock Pines" and "Stump Spring" Quadrangles);

(8) Thence south along the range line through T. 10 N., T. 9 N., and T. 8 N. to its intersection with the South Fork of the Cosumnes River (also the boundary line between El Dorado and Amador Counties) ("Stump Spring" and "Caldor" Quadrangles);

(9) Thence west and northwest along the South Fork of the Cosumnes River to its intersection with range line "R. 11 E./R. 10 E." ("Caldor," "Omo Ranch," "Aukum", and "Fiddletown" Quadrangles);

(10) Thence north along the range line to its intersection with the township line "T. 8 N./9 N." ("Fiddletown" Quadrangle);

(11) Thence west along the township line to its intersection with range line "R. 10 E./R. 9 E." ("Fiddletown" and "Latrobe" Quadrangles);

(12) Thence north along the range line to its intersection with the township line "T. 10 N./T. 11 N." ("Latrobe," "Shingle Springs," and "Coloma" Quadrangles);

(13) Thence east along the township line approximately 4,000 feet to its intersection with the range line "R. 9 E./R. 10 E." ("Coloma" Quadrangle);

(14) Thence north on the range line to its intersection with the township line "T. 11 N./T. 12 N." ("Coloma" Quadrangle);

(15) Thence west along the township line to the point of beginning ("Coloma" and "Pilot Hill" Quadrangles).

Signed: November 15, 1982.

W. T. Drake,

Acting Director.

Approved: November 29, 1982.

David Q. Bates.

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33945 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

## 27 CFR Part 9

[Notice No. 440]

### Hermann Viticultural Area

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of Missouri to be known as "Hermann." This proposal is the result of a petition submitted by Mr. Jim Held, President, Stone Hill Wine Company and Mr. Him Bias, President, Bias Vineyards and Winery. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help wineries better designate the specific grape-growing areas where their wines come from and will help wine consumers better identify the wine they purchase.

**DATE:** Written comments must be received by January 28, 1983.

**ADDRESS:** Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 440.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202-566-7626).

### SUPPLEMENTARY INFORMATION:

#### Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The 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.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. 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. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally