

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-300 Re; Notice No. 694]

RIN 1512-AA07

Realignment of the Eastern Boundary of the Alexander Valley Viticultural Area and the Northeastern Boundary of the Northern Sonoma Viticultural Area (88F-120P)**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.**ACTION:** Treasury decision; final rule.

SUMMARY: This final rule amends the eastern boundary of the Alexander Valley viticultural area to encompass the planted areas of Gauer Ranch and Chestnut Springs Vineyards. Also, the northeastern boundary of the Northern Sonoma viticultural area is being amended to coincide with the amendment of the boundary for the Alexander Valley viticultural area. The amended boundary conforms, in part, to the boundary proposed by Group B of the original Alexander Valley petitioners. Approximately 19,085 acres of territory are added to the Alexander Valley and Northern Sonoma viticultural areas. Of these, 165 acres are currently planted to grapes, and another 460 acres are scheduled to be planted within the next three to five years.

EFFECTIVE DATE: September 10, 1990.**FOR FURTHER INFORMATION CONTACT:**

David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202) 566-7626.

SUPPLEMENTARY INFORMATION:**Background**

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2), title 27, CFR, outlines the procedure 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 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 characteristics (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 features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

T.D. ATF-187

T.D. ATF-187, which was published in the *Federal Register* on October 24, 1984, established the Alexander Valley viticultural area effective November 23, 1984. Two groups had presented petitions for the establishment of an Alexander Valley viticultural area, and a hearing was held on January 24, 1983, concerning establishment of the viticultural area. In the final rule, ATF found that the general area encompassed within the boundaries proposed by the second group, ("Group B"), merited establishment as the Alexander Valley viticultural area. Therefore, the viticultural area established by the final rule generally corresponded to the area proposed by Group B. However, their proposed boundaries were modified to exclude several mountainous areas encompassed by the eastern and northwestern boundaries, which ATF found possessed viticultural features which were distinguished by geographical features from the rest of the proposed viticultural area. Specifically, ATF found that the mountainous areas to the east were characterized by soils primarily of the Goulding-Toomes-Guenoc association, while the valley floor was characterized by soils of the Yolo-Cortina-Pleasanton association. ATF noted that virtually all grapes in the Alexander Valley area were grown on the valley floor, adjacent river terraces, and the lower slopes rising out of the valley. The U.S.G.S. 7.5 minute topographic maps reviewed by ATF did not depict any vineyards in the mountainous areas. Finally, ATF found no evidence that the name Alexander Valley was locally and/or nationally known as referring to those

mountainous areas, or that the historical or current boundaries of Alexander Valley had ever included those areas. Therefore, ATF concluded that the eastern boundaries proposed by Group B encompassed mountain areas which lay outside the actual geographic and viticultural limits of Alexander Valley, and those boundaries were modified accordingly.

Petition

ATF received a petition for amendment of the eastern boundary of Alexander Valley viticultural area to encompass the planted and soon-to-be-planted areas as Gauer Ranch and Chestnut Springs Vineyards. The petition was submitted by Edward H. Gauer of Gauer Ranch and Ellis J. Alden of Chestnut Springs Vineyards.

Mr. Gauer stated that his 6,000-acre ranch includes property on the valley floor and land rising to the northeast into the hills. Mr. Gauer began planting vineyards in Alexander Valley in 1972. Over the next five years he established 251 acres of vineyards on the valley floor and at low elevations in the foothills. Since 1977 an additional 142 acres have been planted on the hillsides, and another 392 acres of potential new vineyard sites have been chosen.

Mr. Alden stated that he purchased his 1,400 acre ranch in the hills east of Geyserville in 1986 and planted his first vineyards in 1988. Thirteen acres of Cabernet grapes are in the ground; a total of 100 acres are planned for the level and nearly level expanses of the upland valley on his ranch.

Mr. Gauer recently learned that a large part of his property was excluded from the official Alexander Valley viticultural area boundaries which were established in 1984. Both of the petitions as originally submitted included all of Mr. Gauer's hillside vineyards, as well as the site which has now been planted to Mr. Alden's vineyards. Evidence at the hearing did not focus on the exclusion of vineyards of higher elevation. Both of the current petitioners were under the erroneous impression that their properties were included in the Alexander Valley viticultural area boundaries. However, the boundaries described in the final rule excluded a portion of Mr. Gauer's vineyards, and totally excluded the property currently owned by Mr. Alden. When T.D. ATF-187 was issued, ATF was unaware that the boundaries would exclude portions of Mr. Gauer's vineyards from the Alexander Valley viticultural area. ATF mistakenly believed that there were no vineyards planted in the mountainous areas to the east of the eastern boundary line. The petition thus requested an amendment of the eastern

boundary of the Alexander Valley viticultural area to include the vineyards owned by the petitioners.

Northern Sonoma

ATF's amendment of the boundary of the Alexander Valley viticultural area affects the boundary of the Northern Sonoma viticultural area.

In the preamble to Notice No. 472 proposing the Northern Sonoma viticultural area, ATF stated its intention to have the proposed boundary coincide generally with the "outer" portions of the boundaries of the proposed Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley viticultural areas. In the preamble to T.D. ATF-204, ATF stated that these four areas all fit perfectly together dividing northern Sonoma County into four large areas with the Northern Sonoma area using all of the outer boundaries of these four areas with the exception of a small area having nearly 300 acres of grapevines and possessing the same geographical features as the rest of the Northern Sonoma area.

Therefore, ATF is amending the northeastern boundary of the Northern Sonoma viticultural area to coincide with the amended eastern boundary for the Alexander Valley viticultural area.

Evidence of Name

The petitioners submitted evidence that the area was known as Alexander Valley at the time the final boundaries were established in 1984, and has been known as part of Alexander Valley since then. Several letters from owners of neighboring vineyards, including one from a member of the Alexander Valley Appellation Committee, stated that the area in question is locally known as part of Alexander Valley. The letters supported the petitioners' contention that their vineyards had been left out of the Alexander Valley boundaries by mistake. Also, letters from several wineries indicated that they had used grapes from the area in question in wines which were labeled as coming from the Alexander Valley.

Newspaper and magazine articles submitted by the petitioners referred to the Gauer ranch as being located in the Alexander Valley area. In addition, a map created in early 1934, before the final rule (T.D. ATF-187) on Alexander Valley was published, and distributed nationally by the Sonoma County Wineries Association, shows the boundaries of the Alexander Valley viticultural area as encompassing the vineyards owned by the petitioners.

Topography

The elevations found within the petitioned area are consistent with elevations inside the currently defined boundaries of Alexander Valley. Elevations in the northeastern corner of the appellation, which are the highest in the Alexander Valley viticultural area, range from 1,600 to 2,400 feet. In the area within the amended boundary, elevations range from 600 to 2,000 feet. The amended boundary approximates a minor watershed boundary within the larger Russian River watershed. To the southwest of the amended boundary line (i.e., the foothills currently in Alexander Valley viticultural area and the area added to the appellation) surface water drains directly into the Russian River. To the northeast of the line, surface water drains first into Sulphur Creek and its tributaries and from there into the Russian River. This natural boundary proceeds from the top of Black Mountain along a ridge line that bisects Mr. Alden's Ranch.

Climate

The climate of the added area falls within the range of climate found inside the currently approved Alexander Valley appellation. The climate of Alexander Valley contains a certain amount of variation. For example, temperatures increase as one travels from north to south; fog affects only the southern portion of the valley. In general, the climate of Alexander Valley is characterized as a Region III climate according to the system developed by Amerine and Winkler.

No long range temperature studies for either the Gauer Ranch or Chestnut Springs Ranch have been made. However, the petitioners stated, "years of viticultural experience on the Gauer Ranch indicate that the area has a region III climate, suitable for the production and consistent ripening of late varieties such as Cabernet Sauvignon, yet not too warm to produce excellent quality Chardonnay, a relatively early variety."

Soils

A very general soil survey map of Sonoma County put out by the U.S. Department of Agriculture Forest Service and Soil Conservation Service (May 1972), which categorizes soil groupings into ten types, characterizes the primarily alluvial soils of the valley floor as the Yolo-Cortina-Pleasanton Association. Proceeding northeast into the foothills, the map identifies the next soil grouping as the Gouling-Toomes-Guenoc Association. Farther east and running parallel to this association lies

another grouping classified as the Yorkville-Suther Association. The rugged mountainous area beyond is mapped as the Los Gatos-Hennecke-Maymen Association. The current eastern boundary of the appellation runs within the area marked Gouling-Toomes-Guenoc, except for the expanded area in the northeast corner, which is mapped as Yorkville-Suther.

However, a closer examination of U.S. Department of Agriculture Forest Service and Soil Conservation (May 1972) large scale soil maps of the eastern half of Alexander Valley suggests that the distinctions between the general soil associations of the foothills are not so clear-cut. The close-in foothills, inside the current Alexander Valley viticultural area boundaries, contain significant quantities of many of the same soils as the foothills within the amended boundary area.

The eastern foothills officially accepted as part of Alexander Valley show substantial areas of Suther loam, Laughlin loam, Suther-Laughlin loams, Spreckels loam soils, and smaller areas of Sobrante loam, Yorkville clay loam, Pleasantown gravelly loam, Josephine loam, Hennecke gravelly loam, and others including Montara cobbly clay loam, Guenoc gravelly silt loam, Supan silt loam, and Toomes rocky loam. The principal soils in this list are classified as uplands range soils.

The area within the amended boundary shows predominantly Suther loam, Laughlin loam, Suther-Laughlin loams, Yorkville clay loam, and Sobrante loam soils, with smaller areas of Josephine loam, Hennecke gravelly loam, and others. The principal soils, here again, are classified as uplands range soils.

The area outside the amended boundary has large areas of Hennecke gravelly loam, Los Gatos gravelly loam, Stonyford gravelly loam, Josephine loam, Suther-Laughlin loams, Hugo very gravelly loam, and Laughlin loam soils, and smaller areas of Maymen gravelly sandy loam, Hugo-Atwell complex, rock land, and others. The principal soils in this group are mountainous/wilderness type soils.

Thus, in the eastern foothills of Alexander Valley, like in most parts of Sonoma County, there is a great diversity of soil types. There are, however, unifying themes as well. As described above, the same soils reappear throughout the foothills. East of the amended boundary, where the terrain becomes appreciably more rugged, different soil types appear and become predominant.

Notice of Proposed Rulemaking

On December 29, 1989 (54 FR 53653), Notice No. 694 was published in the **Federal Register** with a 45 day comment period. In that notice, ATF requested comments regarding the proposal to amend the eastern boundary of the Alexander Valley viticultural area to encompass the planted areas of Gauer Ranch and Chestnut Springs Vineyards. ATF also proposed the amendment of the northeastern boundary of the Northern Sonoma viticultural area to coincide with the proposed amendment of the boundary for the Alexander Valley viticultural area. During the 45 day comment period, no comments were received.

Miscellaneous

ATF does not wish to give the impression that by approving this realignment of the boundary common to the Alexander Valley and Northern Sonoma viticultural areas that it is approving or endorsing the quality of the wine derived from these two viticultural areas. ATF is approving these viticultural areas as being distinct and not better than other areas. By approving these realignments, wine producers within these areas are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "Alexander Valley" and "Northern Sonoma."

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required 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 geographical 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.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer 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

27 CFR Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.53 is amended by revising paragraphs (c) (37) through (42), removing paragraphs (c) (43) and (44), and redesignating paragraphs (c) (45) and (46) as (c) (43) and (44) to read as follows:

§ 9.53 Alexander Valley.

(c) *Boundary.* * * *

(37) Then northerly along the western lines of section 4, of T. 9 N., R. 8 W., and sections 33, 28, 21, 16, and 9 of T. 10 N., R. 8 W.;

(38) Then westerly along the northern lines of section 8 and 7, T. 10 N., R. 8 W. and section 12, T. 10 N., R. 9 W. to the southeastern corner of section 2, T. 10 N., R. 9 W.;

(39) Then northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, T. 10 N., R. 9 W.;

(40) Then westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude;

(41) Then northwesterly in a straight line to the southeast corner of section 4, T. 11 N., R. 10 W., on the Asti, Quadrangle map;

(42) Then northeasterly in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

Par. 3. Section 9.70(b) is revised to read as follows:

§ 9.70 Northern Sonoma.

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978, and the Jimtown Quadrangle, California-Sonoma County, 7.5 Minute series (Topographic) Map, dated 1955, photorevised 1975.

Par. 4. Section 9.70 is amended by revising paragraphs (c) (10) through (26) and by removing paragraphs (c) (27) and (28) to read as follows:

(c) *Boundary.* * * *

(10) The boundary proceeds northerly along the western lines of section 4, of Township 9 North, Range 8 West, and sections 33, 28, 21, 16, and 9 of Township 10 North, Range 8 West of the Jimtown Quadrangle map.

(11) The boundary proceeds westerly along the northern lines of sections 8 and 7, Township 10 North, Range 8 West and section 12, Township 10 North, Range 9 West to the southeastern corner of section 2, Township 10 North, Range 9 West.

(12) The boundary proceeds northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, Township 10 North, Range 9 West.

(13) The boundary proceeds westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude.

(14) The boundary proceeds northwesterly in a straight line to the southeast corner of section 4, Township 11 North, Range 10 West, on the Asti, Quadrangle map.

(15) The boundary proceeds northeasterly in a straight line to the southeast corner of section 34, Township 12 North, Range 10 West.

(16) The boundary proceeds north along the east boundary of section 34, Township 12 North, Range 10 West on the U.S.G.S. Topographical Map of Sonoma County, California, to the Sonoma County-Mendocino County line.

(17) The boundary proceeds along the Sonoma County-Mendocino County line west then south to the southwest corner of section 34, Township 12 North, Range 11 West.

(18) The boundary proceeds in a straight line east southeasterly to the

southeast corner of section 2, Township 11 North, Range 11 West.

(19) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(20) The boundary proceeds in a straight line southeasterly across sections 30, 31, and 32 in Township 11 North, Range 10 West, to the point at 38 degrees 45 minutes North latitude parallel and 123 degrees 00 minutes East longitude in section 5, Township 10 North, Range 10 West.

(21) The boundary proceeds along this latitude parallel west to the west line of section 5, Township 10 North, Range 11 West.

(22) The boundary proceeds along the section line south to the southeast corner of section 18, Township 9 North, Range 11 West.

(23) The boundary proceeds in a straight line southwesterly approximately 5 miles to the peak of Big Oat Mountain, elevation 1,404 feet.

(24) The boundary proceeds in a straight line southerly approximately 2¾ miles to the peak of Pole Mountain, elevation 2,204 feet.

(25) The boundary proceeds in a straight line southeasterly approximately 4¾ miles to the confluence of Austin Creek and the Russian River.

(26) The boundary proceeds along the Russian River northeasterly, then southeasterly to the beginning point.

Signed: June 22, 1990.

Daniel R. Black,

Acting Director.

Approved: June 20, 1990.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 90-18507 Filed 8-8-90; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1441-90]

INTERPOL—United States National Central Bureau; Establishment of User Fees

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On August 23, 1989, the Department of Justice, United States National Central Bureau (USNCB)—INTERPOL, published a notice of proposed rulemaking to amend its

regulations to establish a system of user fees for the noncriminal inquiries it processes yearly. The system will permit the USNCB to recover the administrative costs the USNCB incurs when processing these noncriminal inquiries. No comments having been received, this final rule is being published without change from the proposed regulations.

EFFECTIVE DATE: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Ernest M. Buck, Deputy Assistant Chief, Financial Fraud Analysis Section, U.S. National Central Bureau (INTERPOL), (202) 272-8383. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This regulation will permit the collection of user fees for noncriminal inquiries to the USNCB, such as background checks pertaining to adoptions, gaming licensing, and state bar examination applicants. The fees are intended to recover the administrative costs the USNCB incurs in processing the noncriminal inquiries.

This regulation is not a major rule within the meaning of Executive Order 12291. This regulation will not have an impact on a significant number of small business. 5 U.S.C. 901.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, organization and functions (Government agencies), Whistleblowing.

By the authority vested in me including 28 U.S.C. 509, and 5 U.S.C. 301, subpart F-2 of part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 878(a), 881(d), 904; 22 U.S.C. 263a, 1621-1654, 1622 note; 28 U.S.C. 509, 510; 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108; 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001-2017p; Pub. L. 91-513, sec. 501; E.O. 11919; E.O. 11267; E.O. 11300; Pub. L. 101-203.

2. Subpart F-2, § 0.34 is amended by adding a new paragraph (g) to read as follows:

§ 0.34 General functions.

(g) Establish and collect user fees to process name checks and background records for licensing, humanitarian and other non-law enforcement purposes.

Dated: July 31, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 90-18572 Filed 8-8-90; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3814-5]

Approval and Promulgation of State Implementation Plans; North Dakota; Group III PM10 and Other Regulation Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving revisions to North Dakota's State Implementation Plan (SIP) submitted by the Governor on April 18, 1989. This approval is only for those revisions which updated and revised State rules (including PSD regulations) and control strategies to address PM10, and made minor updates to various other regulation revisions, including the revisions to the Control of Pesticides regulation. The April 18, 1989 submittal (1) established new and revised existing New Source Performance Standards (NSPS), (2) revised existing National Emission Standards for Hazardous Air Pollutants (NESHAPs), (3) updated and revised State rules (including PSD regulations) and control strategies to address PM10, (4) made minor updates to various other State regulations, including the revisions to the Control of Pesticides regulation, and (5) added a control strategy to address visibility. The NSPS additions and revisions, and NESHAPs revisions, are being addressed in separate actions. The visibility control strategy was addressed at 54 FR 41094, October 5, 1989. This action updates the North Dakota SIP to incorporate the control strategy for Group III PM10 areas and the revisions to the Air Pollution Control Rules. EPA proposed to approve this action at 54 FR 40133, September 29, 1989 (with corrections at 54 FR 43521, October 25, 1989). No comments were received.

EFFECTIVE DATE: This rule will become effective on September 10, 1990.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following offices: