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§ 396.5 Penalty for misuse of the seal.

Unauthorized use of the seal of the Railroad Retirement Board may result in criminal prosecution under applicable law.

Dated: May 22, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01-13654 Filed 5-30-01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF 454; Ref: Notice No. 866]

RIN 1512-AA07

Establishment of Santa Rita Hills Viticultural Area (98R-129 P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Santa Barbara County, California, to be known as "Santa Rita Hills." The proposed area occupies more than 48 square miles. This action is being taken as a result of a petition from viticulturists and vintners of the proposed area under the direction of J. Richard Sanford (Sanford Winery), Bryan Babcock (Babcock Vineyards and Winery), and Wesley D. Hagen (Vineyard Manager of Clos Pepe Vineyards).

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine are grown and enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: July 30, 2001.

FOR FURTHER INFORMATION CONTACT: Joyce A. Drake, ATF Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20091-0221 (202)-927-8210.

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 the establishment of defined viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

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. Section 4.25a(e)(1), Title 27, CFR, defines an American Viticultural Area (AVA) as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an AVA. 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 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 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 boundaries prominently marked.

Petition

ATF received a petition under the direction of J. Richard Sanford (Sanford Winery) which was written by Wesley D. Hagen (Vineyard Manager of Clos Pepe Vineyards), on behalf of viticulturists and vintners working in Santa Barbara County, California. The petition, which was signed by 22 people, 14 of whom are local wine grape growers, proposed to establish a viticultural area surrounded by but separate from the Santa Ynez Valley AVA of California to be known as "Santa Rita Hills." The boundary of the viticultural area encloses an estimated area slightly greater than forty-eight (48) square miles and contains

approximately 500 acres of planted varietal winegrapes. Currently two (2) wineries and seventeen (17) vineyards exist within the Santa Rita Hills area. Two additional vineyards are being developed.

Comments

On September 11, 1998, ATF published a notice of proposed rulemaking, Notice 866, in the **Federal Register**, soliciting comments on the proposed viticultural area.

Analysis of Comments

ATF received a total of 35 comments concerning this petition. Eleven letters of support from various persons familiar with the proposed AVA were submitted with the petition. These letters of support included industry "experts," vintners, consultants, local politicians (such as the Chair for the Santa Barbara County Board of Supervisors and the Mayor of the city of Lompoc), and viticulturists. Seven of the eleven comments were from persons who had also signed the petition. All 11 comments attested to the uniqueness of the area, its distinctive characteristics (geological, geographic, and climatic) and the local recognition of the area by the proposed name.

ATF received 24 comments that opposed the establishment of the Santa Rita Hills AVA. Most of these commenters were foreign/international importers and distributors. The opposition in each response revolved around the similarity of the proposed name to an already established "Santa Rita" brand of wine from Chile.

All Commenters Opposing the Establishment of the "Santa Rita Hills" Viticultural Area Presented the Following To Support Their Contention That the Petition To Establish the Santa Rita Hills Viticultural Area Should Be Denied

There is already a well known and established "Santa Rita" vineyard and winery located in Chile, Vina Santa Rita, which was founded in 1880 and is known worldwide. Vina Santa Rita is a public company whose shares are traded on the Santiago Stock Exchange. This "Santa Rita" winery is the second largest winery in Chile, with consumer brand recognition in the Chilean wine industry. Large sums of money have been invested by both the "Santa Rita" winery in Chile and various importers and distributors worldwide to advertise and promote the "Santa Rita" (Chile) brand.

The opposing commenters contend that the establishment of a "Santa Rita Hills" viticultural area would confuse

wine consumers who already associate the name "Santa Rita" with the Chilean wine. One commenter stated that, since the names are phonetically identical (sans the last word "Hills"), a product labeled of a "Santa Rita Hills" appellation may be seen as a variety of the Chilean "Santa Rita" as the Chilean "Santa Rita" is surrounded by hills and mountains. Also, since both names would refer to the same product (wine), the likelihood of consumer confusion would increase.

The opponents believe Chile's "Santa Rita" owns a U.S. trademark and, therefore, the establishment of the "Santa Rita Hills" viticultural area would result in an infringement of the "Santa Rita" registered mark under the Lanham Act.

The opponents' view is that the establishment of a "Santa Rita Hills" AVA would violate the U.S. obligations under the Paris Convention and General Agreement on Tariffs and Trade (GATT), including Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Arguments Supporting the Establishment of the "Santa Rita Hills" Viticultural Area

The name "Santa Rita Hills" is locally and/or nationally known as referring to the specified area through maps, land records, reports, and various texts. These records show the Santa Rita area dating back to 1845 (35 years prior to the founding of the Santa Rita winery in Chile). The Californian Santa Rita title was accredited and confirmed in the U.S. Patent Book "A" on June 25, 1875.

The "Santa Rita" name is also used, and ATF approved, as a brand name on other wines not from Chile. According to documents found in ATF's label files, the "Santa Rita" name has been used on wines from Italy and the United States. This includes the use of the name "Santa Rita" on wines from Longoria, a winery in the Santa Rita Hills area whose proprietor, Richard Longoria, submitted a letter of support as well.

Wines from the "Santa Rita Hills" area have been recognized viticulturally and enologically as distinct by world-renowned writers and mentioned as such in wine literature. Supporting documentation shows that the area has a cool climate and soils more conducive to growing "Region One" cool-climate grape varieties whereas the surrounding Santa Ynez Valley AVA provides a warmer climate and soils for "Region Two" grape growing varieties. This distinction results in different wine varieties from each region.

The region of Santa Rita Hills is recognized viticulturally and

enologically for producing world class cool-climate grapes such as Pinot Noir and Chardonnay, because of the unique climatic and geographical influences of the area.

Discussion

Evidence of Name

ATF is satisfied that the petitioner provided evidence that the name "Santa Rita Hills" is locally known as referring to the area specified in the petition. In the exhibits and maps furnished with the petition, there are numerous references to both "Santa Rita" and "Santa Rita Hills."

Evidence submitted with the petition relating to name includes:

(a) The U.S.G.S. Lompoc, Lompoc Hills, Los Alamos, and Santa Rosa Quadrangle maps used to show the boundaries of the proposed area use the name "Santa Rita Hills" to identify the area.

(b) The U.S.G.S. Water-Resources Investigations Report 970-4056 (Evaluation of Ground Water Flow and Solute Transport in the Lompoc Area, Santa Barbara County, California) discusses the "Santa Rita Upland Basin." The report indicates that "Santa Rita" is a recognized geological, geographical, and hydrological appellation in Santa Barbara County, California.

(c) An excerpt, "From the Missions to Prohibition," in the publication *Aged in Oak: The Story of the Santa Barbara County Wine Industry* (1998), provided by the petitioner shows the vineyards and wineries in Santa Barbara County prior to 1900 include the name "Santa Rita."

(d) The text provided by the petitioner from *History of Santa Barbara County* (1939) states, "Following the secularization of the Mission La Purisma, the rest of the valley was broken up into seven great ranchos granted to private owners. They were Santa Rosa, *Santa Rita*, Salsipuedes, La Purisima, Mission Vieja, Lompoc and a portion of the Jesus Maria." (Italics added for emphasis.)

The Land Records of Santa Barbara County from the U.S.G.S. furnished by the petitioner show the Santa Rita area dating back to 1845. According to this information, Santa Rita was established as a recognized political and geographical region when a land grant for Santa Rita was made to Jose Ramon Malo from Spanish governor Pio Pico on April 12, 1845. The title was accredited to Jose Ramon Malo on June 25, 1875 by President Ulysses S. Grant as confirmed in the U.S. Patent Book A. (Pertinent pages are shown as exhibits to the

petition.) The patent issued included 13,316 acres within the boundary of the Santa Rita Land Grant.

The names "Santa Rita" and "Santa Rita Hills" are both well documented in the petition and are both supported by written comments evidencing local recognition of the name as referring to the area specified in the petition. ATF finds that the name "Santa Rita Hills" is appropriate to identify the viticultural area based upon evidence submitted with the petition, including commenters' support of the name "Santa Rita Hills" to describe the viticultural area and U.S.G.S maps identifying the area as "Santa Rita Hills".

As to potential confusion between a product labeled with a "Santa Rita Hills" AVA and wines labeled with the name "Santa Rita," a similar issue was raised when ATF was presented with a petition to establish a "Madera" AVA back in 1984. Some commenters to the petition, including the Portuguese Embassy, objected to the appellation of "Madera" due to possible confusion with the Portuguese island of Madeira which had produced world famous wine for over 500 years. The commenters were concerned that the use of the appellation "Madera" would cause possible confusion with Madeira wine (a class and type of dessert wine). ATF had previously recognized Madeira as a class and type of wine and as a semi-generic wine designation with geographical significance. When used as a class and type designation, Madeira had to be qualified with an appellation of origin if the wine was not from the island of Madeira.

Although ATF recognized the similarity in the names "Madera" and "Madeira," ATF ruled in favor of the petitioner. All evidence showed that the proposed AVA was locally and nationally known as "Madera" thus meeting the requirement in 27 CFR 4.25a(e)(2)(I). In addition, ATF did not see any consumer confusion between "Madera" and "Madeira" wine when "Madera" was used as an appellation of origin on domestic wines.

In the present case, while ATF also recognizes the similarity between the name of the viticultural area "Santa Rita Hills" and the name "Santa Rita" in Chile, ATF is satisfied that the petition meets all of the requirements of 27 CFR 4.25a. Evidence submitted with the petition amply supports the local recognition of the name "Santa Rita Hills." In addition, ATF does not foresee a likelihood of consumer confusion between the "Santa Rita Hills" AVA and other geographic areas of the same name. Numerous labels

bearing the name "Santa Rita" in one form or another have already been approved (from the United States, Chile, and Italy) dating from 1980, and ATF is aware of no reported consumer confusion as to the respective products' origins.

As to objections to the use of the name "Santa Rita Hills" based upon potential violations of the Lanham Act and insofar as it implements U.S. obligations on trademarks under the Paris Convention, GATT, and TRIPS, these issues are matters of private dispute that do not restrict ATF's authority to establish a viticultural area under the Federal Alcohol Administration Act ("FAA Act"), 27 U.S.C. 205(e).

Lanham Act

It is ATF's position that the rights granted by registered trademarks under the Lanham Act do not foreclose the right to use the same or similar names on an alcohol beverage label under the FAA Act. In determining whether to establish a viticultural area of a particular name that is identical or similar to a trademarked name, ATF considers whether the criteria set forth in section 4.25a are met, whether the rulemaking record supports the use of the name for the designated area, and whether the use of such name would be deceptive or likely to create a misleading impression as to the product's origin. The existence of a trademark is one factor in determining whether the use of a particular name is misleading to consumers.

In the case of the name "Santa Rita Hills," ATF finds that Federal registration of the term "Santa Rita" under the Lanham Act does not limit ATF's authority to establish a viticultural area known as "Santa Rita Hills." First, as previously indicated, the petition satisfies the requirements of 27 CFR 4.25a. Second, no evidence in the rulemaking record or otherwise based on our experience in administering and enforcing the use of viticultural area designations, indicates that the name "Santa Rita Hills" would be misleading under the standard of the Federal Alcohol Administration Act, 27 U.S.C. 205(e)(1). As previously stated, numerous labels bearing the name "Santa Rita" in one form or another have already been approved (from the United States, Chile, and Italy) and there has been no evidence or other indication that establishes that consumers are confused as to the respective products' origins.

The fact that imported products are required to state the words "Imported by" followed by the name and address

of the party responsible for importation would, in the case of a product with a "Santa Rita Hills" appellation, signal to consumers that the product is domestically produced rather than Chilean in origin. The fact imported products are also required by Customs regulations to state the words "Product of ___" followed by the country of origin, further identifies the origin of imported products to consumers, as distinct from domestic products. Likewise, the fact that domestic products are required to indicate the name and address of the bottler or packer, minimizes the likelihood of confusion between a "Santa Rita Hills" wine and a product of Santa Rita in Chile or any other place.

Finally, under trademark law, the mere existence of a trademark does not necessarily preclude others from indicating the geographic origin of their products where the name is used in a descriptive sense rather than a trademark sense. In the case of a "Santa Rita Hills" viticultural area, the name would be used on a label in a descriptive sense, to describe the product's appellation under the FAA Act.

ATF has determined that, under the "misleading" standard of the FAA Act, the use of the name "Santa Rita Hills" for this viticultural area is not likely to mislead the consumer. However, to the extent that a trademark holder believes that the depiction of a viticultural area name that contains all or part of a trademark results in an infringement, then that holder may pursue an infringement action to prevent and restrain the use of that viticultural area name by a winery on a wine label. The holder of the trademark would have to establish the likelihood of confusion based on the standard in the Lanham Act and the circumstances surrounding the presentation of the viticultural area name on the label. In cases where the trademark holder succeeds in establishing an infringement, then the ability to enjoin the continued use of that name by the winery ensures that the first in time right and exclusivity of rights of the trademark holder are protected. It must be noted that, in approving the name Santa Rita Hills for this viticultural area, ATF is not making any determination on whether the use of this name constitutes an infringement under the Lanham Act.

It should be emphasized that the Santa Rita winery in Chile will not necessarily be precluded from using the designation "Santa Rita" as a brand name on wine labels following issuance of this regulation. Pursuant to 27 CFR 4.39(i), a brand name of geographical significance may be used if it previously

appeared on labels approved prior to July 7, 1986, and if the wine is also labeled with an appellation of origin (or some other statement which the Director finds to be sufficient to dispel the brand name's geographic connotation). Thus, the name "Santa Rita" may be used as a brand name where the wine meets the appellation requirements of the regulations and is labeled in a way that satisfies the regulatory requirements. As always, all labels are reviewed on a case-by-case basis to determine whether any particular label is likely to mislead consumers, including as to the origin of the product.

Finally, the comments raise questions about the application of the Paris Convention and the Agreement on Trade Related Aspects of Intellectual Property. Trademark rights mandated by these international obligations are implemented under the Lanham Act. Accordingly, any private rights in this area are available for pursuit as provided for by that Act.

In consideration of the above, ATF is adopting the name "Santa Rita Hills" in this final rule. ATF finds that the name "Santa Rita Hills" is appropriate to identify the viticultural area based upon all of the evidence in the petition and comments.

Evidence of Boundaries

The "Santa Rita Hills" AVA is located in Northern Santa Barbara County, California, east of Lompoc (U.S. Highway 1) and west of Buellton (U.S. Highway 101). Precise boundaries can be found on the five (5) U.S.G.S. Quadrangle maps (7.5 minute series originally dated 1959) submitted with the petition. On these maps, the Santa Rita Hills are the dominant central features of the area with its transverse (east/west) maritime throat stretching from Lompoc to a few miles west of the Buellton Flats. The Santa Rosa Hills to the south and the Purisima Hills to the north isolate the proposed area geographically and climatically.

Again, the U.S.G.S. Water-Resources Investigations Report 970-4056 describes the Santa Rita Upland Basin as being "in hydrologic continuity with the Lompoc Plain, Lompoc Upland and Buellton Upland basins, but separated from the Santa Ynez River alluvium by non-water-bearing rocks." It goes on to state, "[a]n ongoing U.S.G.S. study treats the Santa Rita Valley as a separate unit * * *" and "* * *" the eastern surface drainage divide between Santa Rita and Lompoc basins was used as a ground-water divide by the U.S.G.S."

Climate

The climatic features of the viticultural area and thus the varieties grown therein, set it apart from the Santa Ynez Valley AVA, which borders the viticultural area. The Santa Ynez Valley area east of U.S. Highway 101 is characterized by higher temperatures than the "Santa Rita Hills" AVA to the west, which has a cool climate and is thus more conducive to growing "Region One" cool-climate winegrape varieties. By contrast, the eastern area of the Santa Ynez Valley, a "Region Two" growing area, provides a warmer climate and is well known for the production of varietal winegrapes such as Cabernet Sauvignon, Cabernet Franc, Merlot, Sauvignon Blanc, Mourvedre, and other varieties that require a significantly higher temperature (degree days) for adequate ripening. The "Santa Rita Hills" AVA, to the west of U.S. Highway 101, is better known for varieties such as Chardonnay and Pinot Noir, which are the predominant winegrapes there. In addition, ambient temperature and evapotranspiration rates during veraison and ripening are disparate for the two adjacent viticultural locales. The average post-veraison ripening temperature is 14.7° F hotter within the Santa Ynez Valley AVA than in the "Santa Rita Hills" AVA to the west. Similarly, the heating degree day differential (with the base of 50° F) between the two areas is 61 heating degree days, indicating an annual 92 heating degree days in the western Lompoc boundary and an annual 153 heating degree days in the eastern Cachuma Lake boundary. These temperature differences are the result of a unique set of topographical, geological and climatic influences, particularly coastal in origin.

The "Santa Rita Hills" AVA is situated within the clearly defined east/west transverse maritime throat, and thus is susceptible to the ocean's cooling influence. This enables diurnal ocean breezes direct access to the coastal valleys between the Purisima Hills and the Santa Rosa Hills, which house the AVA. The coastal influence is not nearly as pronounced in the Santa Ynez Valley east of U.S. Highway 101 and the Buellton Flats. In addition, the proximity of the AVA to the Pacific Ocean fills the hills and valleys of the "Santa Rita Hills" AVA in the late night and early morning hours with coastal fog. This intensifies the cool-climate influence on varietal winegrape production between the geological boundaries of the Purisima Hills and the Santa Rosa Hills.

Soil

The soils of the Santa Rita Hills are broken down from an array of geological parent material, with the most common types being loams, sandy loams, silt loams, and clay loams. These soils are based on large percentages of dune sand, marine deposits, recent alluvium, river wash, and terrace deposits, which are shown on maps provided in the exhibits of the petition. Soil samples collected from selected sites within the "Santa Rita Hills" AVA and the adjacent Santa Ynez Valley AVA show a distinct difference resulting from a high percentage of alluvial and marine sand within the Santa Rita Hills area. While the soil samples from the "Santa Rita Hills" AVA show higher percentages of sand, silt and sandy loams, the soil samples from the eastern Santa Ynez Valley show a higher percentage of gravelly and clay loams. Also, soil analysis test results from several vineyards in the proposed "Santa Rita Hills" AVA conducted by various labs in the area support the distinct soil data claims.

Topography

The topography of the "Santa Rita Hills" AVA is distinct and isolated from the rest of the Pacific Coast, the Central Coast, and the Santa Ynez Valley east of U.S. Highway 101 and the Buellton Flats. The AVA is demarcated by the east-west ranges of the Purisima Hills on the north and the Santa Rosa Hills on the south, framing Santa Rita Hills. When surveying the land within Santa Rita Hills to determine what locales would be the outer "edges," the petitioner states the following was taken into account: viticultural viability (primarily hillside and alluvial basin plantings) and the coastal influence suitable for cool-climate still winegrape production. The actual topography of the "Santa Rita Hills" AVA is an oak-studded, hill-laden maritime throat that runs east to west, a few miles east of Lompoc to a few miles west of Buellton Flats. The coastal influence enters from the west, through Lompoc, and abruptly loses its influence at the eastern boundary, as demarcated on the enclosed U.S.G.S. maps. Elevations within the proposed boundary range from near sea-level to ridge-line 1800 feet above sea level.

ATF believes that the above statements relating to climate, soil, and topography are supported by the petition and distinguish the geographical features of the viticultural area from surrounding areas. Accordingly, ATF is establishing the

"Santa Rita Hills" AVA as described below.

Boundary

The boundary of the "Santa Rita Hills" AVA may be found on the five (5) 1:24:000 scale U.S.G.S. Quadrangle 7.5-Minute Series maps included with the petition. The boundary is described in § 9.162.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) and its implementing regulations, 5 CFR part 1320, do not apply to this Treasury Decision because no requirement to collect information is imposed.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this regulation is not subject to the analysis required by this Executive Order.

Drafting Information

The author of this document is Joyce A. Drake, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.162 to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

§ 9.162 Santa Rita Hills.

(a) *Name.* The name of the viticultural area described in this section is “Santa Rita Hills.”

(b) *Approved maps.* The appropriate maps for determining the boundary of the Santa Rita Hills viticultural area are five (5) U.S.G.S. Quadrangle 7.5 Minute Series maps titled:

(1) “Lompoc, Calif.,” edition of 1959 (photorevised in 1982).

(2) “Lompoc Hills, Calif.,” edition of 1959 (photinspected 1971).

(3) “Los Alamos, Calif.,” edition of 1959.

(4) “Santa Rosa Hills, Calif.,” edition of 1959 (photinspected 1978).

(5) “Solvang, Calif.,” edition of 1959 (photorevised 1982).

(c) *Boundary.* The “Santa Rita Hills” viticultural area is located within Santa Barbara County, California. The boundary is as follows:

(1) The beginning point is found on the Solvang, California U.S.G.S. Quadrangle map at an unnamed hilltop, elevation 1600 feet, in section 27, T.6N., R. 32W, on the Solvang, Calif., Quadrangle U.S.G.S. map.

(2) Then proceed north and slightly west 2.3 miles to an unnamed hilltop elevation 1174 feet, Section 15, T.6N., R. 32W.

(3) Proceed west and slightly north 1.85 miles to an unnamed hilltop elevation 899 feet within the heart of the Santa Rosa Land Grant, T.7N., R. 32W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(4) Proceed north approximately 2 miles to an unnamed hilltop elevation 1063 feet within the northeastern part of the Santa Rosa Land Grant, T.7N., R. 32W, on the Los Alamos, Calif., Quadrangle U.S.G.S. map.

(5) Proceed northwest 1.1 miles to an unnamed hilltop elevation 961 feet. Section 29, T.7N., R. 32W.

(6) Proceed north and slightly east 1.1 miles to an unnamed elevation 1443 feet. Section 20, T. 7N., R. 32W.

(7) Proceed west 1.4 miles to an unnamed hilltop elevation 1479 feet. Section 24, T.7N., R. 33W.

(8) Proceed north 1.2 miles to an unnamed hilltop elevation 1705 feet. Section 13, T.7N., R. 33W.

(9) Proceed northwest approximately 2 miles to an unnamed hilltop elevation 1543. Section 10, T.7N., R. 33W.

(10) Proceed west and slightly south 1.6 miles to an unnamed hilltop elevation 935 feet within the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(11) Proceed south by southwest 1.5 miles to an unnamed hilltop elevation

605 feet in the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(12) Proceed west by southwest approximately 2 miles to the point where California Highway 246 intersects with the 200-foot elevation contour line comprising the western border of the Santa Rita Hills, within the Santa Rosa Land Grant. T.7N., R. 34W, on the Lompoc, Calif., Quadrangle U.S.G.S. map.

(13) Proceed following the 200 foot elevation contour line south along the western border of the Santa Rita Hills to the extreme southern tip of the 200 foot elevation contour that is .6 miles due west of an unnamed hilltop 361 feet in elevation in the Canada de Salispuedes Land Grant. T.6N., R. 34W.

(14) Proceed southeast 2.35 miles to an unnamed hilltop elevation 1070 feet. Section 18, T.6N., R. 33W, on the Lompoc Hills, Calif., Quadrangle U.S.G.S. map.

(15) Proceed east and slightly south 1.95 miles to an unnamed hilltop elevation 921 feet. Section 16, T.6N., R. 33W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(16) Proceed east by southeast 1.35 miles to an unnamed hilltop elevation 1307 feet at intersection between Sections 22 and 23. T.6N., R. 33W.

(17) Proceed east 2.35 miles to an unnamed hilltop elevation 1507 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(18) Proceed east by southeast 2.1 miles to an unnamed hilltop elevation 1279 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(19) Then proceed east by southeast 1.45 miles to the point of the beginning.

Signed: May 25, 2001.

Bradley A. Buckles,

Director.

Timothy E. Skud,

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

[FR Doc. 01-13645 Filed 5-30-01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18, 19 and 24

[T.D. ATF-455; Ref: Notice No. 823]

RIN 1512-AB59

Volatile Fruit-Flavor Concentrate Shipments and Alternation With Other Premises (2000R-290P)

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule specifically authorizes the transfer of volatile fruit-flavor concentrate (VFFC) unfit for beverage use from one VFFC plant to another for further processing and permits facilities to be alternately used as a VFFC plant, a distilled spirits plant or a bonded wine cellar. This rule allows greater flexibility in the production processes and in the equipment and facilities of VFFC plants.

DATES: Effective date: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; (202) 927-8210; or alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Previously, ATF received a request to vary from the regulations in 27 CFR part 18, Production of Volatile Fruit Flavor Concentrate. This request was to allow the transfer of volatile fruit-flavor concentrate (VFFC) that is unfit for beverage use for further processing from one proprietor of a volatile fruit concentrate plant to another. The current regulation regarding transfer of volatile fruit-flavor concentrate (27 CFR 18.54(a)) does not provide for such a transfer.

Another current regulation (27 CFR 18.51) allows the transfer to a producer's premises of “processing material” that is produced elsewhere subject to certain restrictions and recordkeeping requirements. However, the definition of “processing material” (27 CFR 18.11) does not include concentrate that is intended for further processing. Furthermore, the regulation at 27 CFR 18.56 allows only a VFFC proprietor to receive shipments of returned concentrate previously shipped by such proprietor.

Consequently, ATF proposed to amend the regulations in 27 CFR 18.56 to allow such transfers subject to the