

maintained. Each branch is considered to have a trade or business although each is a geographical division of the same trade or business.

Example (3). W is a domestic corporation that manufactures product X in the United States for sale worldwide. All of W's sales functions are conducted exclusively in the United States. W employs individual Q to work in France. Q's sole function is to act as a courier to deliver sales documents to customers in France. With respect to Q's activities in France, a separate set of books and records as described in paragraph (d) is maintained. Under paragraph (c) of this section, Q's activities in France do not constitute a QBU since they are merely ancillary to W's manufacturing and selling business. Q is not considered to have a QBU because an individual's activities as an employee are not considered to constitute a trade or business of the individual under paragraph (c).

Example (4). The facts are the same as in example (3) except that the courier function is the sole activity of a wholly-owned French subsidiary of W. Under paragraph (b)(2)(i) of this section, the French subsidiary is considered to be a QBU.

Example (5). A corporation incorporated in the Netherlands is a subsidiary of a domestic corporation and a holding company for the stock of one or more subsidiaries incorporated in other countries. The Dutch corporation's activities are limited to paying its directors and its administrative expenses, receiving capital contributions from its United States parent corporation, contributing capital to its subsidiaries, receiving dividend distributions from its subsidiaries, and distributing dividends to its domestic parent corporation. Under paragraph (b)(2)(i) of this section, the Netherlands corporation is considered to be a QBU.

Example (6). Taxpayer A, an individual resident of the United States, is engaged in a trade or business wholly unrelated to any type of investment activity. A also maintains a portfolio of foreign currency-denominated investments through a foreign broker. The broker is responsible for all activities necessary to the management of A's investments and maintains books and records as described in paragraph (d) of this section, with respect to all investment activities of A. A's investment activities qualify as a QBU under paragraph (b)(2)(ii) of this section to the extent the activities engaged in by A generate expenses that are deductible under section 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).

Example (7). Taxpayer A, an individual resident of the United States, is the sole shareholder of foreign corporation (FC) whose activities are limited to trading in stocks and securities. FC is a QBU under paragraph (b)(2)(i) of this section.

Example (8). Taxpayer A, an individual resident of the United States, markets and sells in Spain and in the United States various products produced by other United States manufacturers. A has an office and employs a salesman to manage A's activities in Spain, maintains a separate set of books

and records with respect to his activities in Spain, and is engaged in a trade or business as defined in paragraph (c) of this section. Therefore, under paragraph (b)(2)(ii) of this section, the activities of A in Spain are considered to be a QBU.

Example (9). Foreign corporation FX is incorporated in Mexico and is wholly owned by a domestic corporation. The domestic corporation elects to treat FX as a domestic corporation under section 1504(d). FX operates entirely in Mexico and maintains a separate set of books and records with respect to its activities in Mexico. FX is a QBU under paragraph (b)(2)(i) of this section. The activities of FX in Mexico also constitute a QBU under paragraph (b)(2)(ii) of this section.

Example (10). F, a foreign corporation, computes a gain of \$100 from the disposition of a United States real property interest (as defined in section 897(c)). The gain is taken into account as if F were engaged in a trade or business in the United States and as if such gain were effectively connected with such trade or business. F is a QBU under paragraph (b)(2)(i) of this section because of its corporate status. F's disposition activity constitutes a separate QBU under paragraph (b)(3) of this section.

Dated: November 9, 1989.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90-186 Filed 1-3-90; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-291; RE: Notice No. 687]

RIN 1512-AA07

Arroyo Grande Valley Viticultural Area (87F-147P)

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as Arroyo Grande Valley which is located in San Luis Obispo County, California. The petition was submitted by the proprietors of two wineries in the area. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: February 5, 1990.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Coordinator, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, room 6237, Washington, DC 20226, telephone (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in title 27, Code of Federal Regulations, part 4. These regulations allow the establishment of definitive American 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 to title 27 a new part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of 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.

Petition

By letter dated July 8, 1987, Don Talley of Talley Vineyards and William S. Greenough of Saucelito Canyon Vineyard filed a petition for the establishment of an "Arroyo Grande Valley" viticultural area in San Luis Obispo County, California.

The Arroyo Grande Valley is approximately 12 miles southeast of the town of San Luis Obispo. The western leg of the boundary of the viticultural area is about three miles directly east of the Pacific Ocean at Grover City. The area covers approximately 67 square miles. The principal stream in the area is the Arroyo Grande Creek which meanders approximately 12 miles in a southwesterly direction from the spillway of Lopez Lake to the Pacific Ocean. The viticultural area includes substantially all the drainage of the Arroyo Grande Creek including the (upper) Arroyo Grande Creek. Feeding waters into the Arroyo Grande Creek are Tar Spring Creek, Los Berros Creek and Lopez Lake into which flow the (upper) Arroyo Grande Creek, Wittenberg Creek and the creek in Lopez Canyon. Tributaries to the (upper)

Arroyo Grande Creek are Phoenix Creek and Saucelito Creek.

Within the viticultural area are four vineyards totaling 350 acres planted in wine grapes and three bonded wineries. The Edna Valley viticultural area lies immediately to the northwest, the boundary of Los Padres National Forest straddles the north leg of the boundary, the Santa Maria viticultural area lies to the southeast of Arroyo Grande Valley, and the Pacific Ocean communities of Oceano, Grover City and Arroyo Grande about the southwestern leg of the boundary. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 687, in the *Federal Register* on July 20, 1989 (54 FR 30398), proposing the establishment of the Arroyo Grande Valley viticultural area.

Comments

No comments were received during the 45-day comment period which ended on September 5, 1989.

Name and History

The mission at San Luis Obispo farmed the bottomlands in the valley from 1780 until 1842 when the Mexican governor granted "Rancho Arroyo Grande" to Zefarino Carlon. Today, the names "Arroyo Grande" and "Arroyo Grande Valley" can be found on many maps of the area. Commercial vineyards were first planted in 1880 in Saucelito Canyon. The oldest winery in San Luis Obispo County, St. Remy, was also established in Saucelito Canyon in 1880 and produced wines until National Prohibition. This winery identified itself as being from Arroyo Grande.

Geographical/Climatological Features

The Arroyo Grande Valley viticultural area is mainly distinguished from surrounding areas by differences in climate and, to a lesser extent, by soil. These differences are based on the following:

(a) Climate

The primary characteristic distinguishing Arroyo Grande Valley from neighboring areas is climate. The climate ranges from high Region I to Region II as classified by the University of California system of heat summation. The climate during the growing season is influenced by the proximity of the Arroyo Grande Valley to the Pacific Ocean. The marine air produces frequent morning and evening fog. This distinguishes the area from inland areas of San Luis Obispo County which are not open to the ocean and have much higher summer temperatures and colder winter temperatures.

The climate during the months of March, April and May is dominated by a strong onshore air flow bringing cold winds which delay early season growing and fruit set of the grapevines. Because the Arroyo Grande Valley is shielded by the mountain range on the northwest side, the effects of the onshore air flow are moderated.

The valley experiences a long dry moderate summer season and a mild winter season. The average rainfall is 20 inches with about 80 percent of the rain falling between December and March.

The valley floor ranges from sea level to 400 feet above sea level. The viticultural area takes in higher elevations from 300 to 1,000 feet in elevation. Present grape plantings are on low hills near the valley floor. During the summer growing season, the sun shines more than 90 percent of the day. Temperatures of 100 degrees F occur nearly every year. Average maximum readings for July are in the 90's and range from about 92 degrees F at higher elevations to 98 degrees F at lower elevations with occasional highs ranging from 110 degrees F to 115 degrees F.

The climate of the area is characterized by cool summer night temperatures, often dropping to 30 degrees below daytime highs.

The Arroyo Grande Valley, as a whole, is slightly warmer than the Santa Maria Valley viticultural area to the south, and somewhat cooler than the Edna Valley and Paso Robles viticultural areas to the north, as determined by the average total number of degree days during the growing season.

The Arroyo Grande Valley usually gets more precipitation each year than the Santa Maria Valley to the south or the Paso Robles area to the north. Edna Valley, to the immediate northwest, usually gets just slightly less precipitation than Arroyo Grande Valley.

The Arroyo Grande Valley is oriented on a northeast-southwest axis whereas both Edna Valley and Santa Maria Valley are oriented on a northwest-southeast axis. This northeast-southwest orientation for Arroyo Grande Valley results in prevailing southwesterly winds in the valley.

Farm Advisor Statement

Mr. John H. Foott, Farm Advisor, Cooperative Extension, University of California, San Luis Obispo County, states that Arroyo Grande Valley is definitely a valley with a climate and terrain different from the Paso Robles and Edna Valley appellations. Arroyo Grande Valley has a southwest orientation to the coast, which gives it

some protection from northwest winds. Fog in the summer keeps the valley cool and would designate it as a Region I, according to Mr. Foott. The fog usually burns back in the late morning hours, which gives a gentle warming in the afternoon—ideal for good wine grape quality. These are the items that distinguish the Arroyo Grande Valley from the other areas of the county.

Statement from Professor Fountain

Mr. H. Paul Fountain, Professor of Viticulture, Crop Science Department, California Polytechnic State University, states that Arroyo Grande Valley has many climate characteristics similar to the Edna Valley. The area is much different from most of the grape growing areas of San Luis Obispo County, particularly the northern parts of the county including Paso Robles and Shandon.

The greatest difference between Arroyo Grande and the Paso Robles/Shandon area is temperature. Paso Robles is much warmer in the summer and colder in the winter. The difference is not only the high and low temperatures during the growing season, but the length of time each day that the maximum temperatures occur.

The Arroyo Grande area in west of the Santa Lucia Mountain range and experiences the moderating coastal influences. Early morning fogs (many times up until 9 to 10 a.m.) and afternoon coastal onshore breezes during the growing season keep this area much cooler and the maximum temperatures of shorter duration than the grape growing area east of the Santa Lucia Mountain range.

Consequently, the climate of the Arroyo Grande Valley is different from the other grape growing areas of San Luis Obispo County.

(b) Soils

Soils within the Arroyo Grande Valley viticultural area are shallow and moderately deep, moderately sloping to extremely steep, and well drained. Some soils on the valley floor are very deep, nearly level to moderately sloping, somewhat poorly drained and well drained silty clay loam and sandy clay loam soils.

Boundaries

The boundaries of the Arroyo Grande Valley viticultural area as proposed in the notice are adopted. An exact description of these boundaries is discussed in the regulations portion of this document. ATF believes that these boundaries delineate an area with

distinguishable geographic and climatic features.

Miscellaneous

ATF does not wish to give the impression by approving the Arroyo Grande Valley viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Arroyo Grande Valley wines.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (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.

Regulatory Flexibility Act

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

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 Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

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.

Paragraph 2. The Table of Sections in subpart C is amended to add the title of § 9.129 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *
 § 9.129 Arroyo Grande Valley.
 * * * * *

Paragraph 3. Subpart C is amended by adding § 9.129 to read as follows:

§ 9.129 Arroyo Grande Valley.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of Arroyo Grande Valley viticultural area are four U.S.G.S. topographical maps of the 1:24,000 scale:

(1) "Arroyo Grande, NE, California," edition of 1965, photorevised 1978.

(2) "Tar Spring Ridge, California," edition of 1967.

(3) "Nipomo, California," edition of 1965.

(4) "Oceano, California," edition of 1965, photorevised 1979.

(c) *Boundary:* The Arroyo Grande Valley viticultural area is located in San Luis Obispo County in the State of California. The boundary is as follows:

(1) Beginning on the "Arroyo Grande" map at the point of intersection of State Route 227 and Corbit Canyon Road in Arroyo Grande Township, the boundary

proceeds approximately 0.1 mile, in a northwesterly direction, along the roadway of State Route 227 to the point where State Route 227 intersects with Printz Road in Poorman Canyon in the Santa Manuela land grant;

(2) Then northwesterly, approximately 1.5 miles, along Printz Road to its intersection with Noyes Road in the Santa Manuela land grant;

(3) Then northerly, approximately 1.5 miles, along Noyes Road to its intersection with State Route 227 (at vertical control station "BM 452") in the Santa Manuela land grant;

(4) Then in a northeasterly direction in a straight line approximately 1.4 miles to the intersection of Corbit Canyon Road with an unnamed, unimproved road at Verde in the Santa Manuela land grant;

(5) Then approximately 1.9 miles in a generally northeasterly direction, along the meanders of said unimproved road to its easternmost point, prior to the road turning back in a northwesterly direction to its eventual intersection with Biddle Ranch Road;

(6) Then in a northwesterly direction approximately 1.13 miles in a straight line to the summit of an unnamed peak identified as having an elevation of 626 feet in the Santa Manuela land grant;

(7) The easterly, approximately 0.46 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 635 feet, in the Santa Manuela land grant;

(8) Then east northeasterly, approximately 0.27 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 799 feet, in the Santa Manuela land grant;

(9) Then easterly, approximately 0.78 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 952 feet, in the Santa Manuela land grant;

(10) Then easterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,188 feet, in the southwest corner of section 29, T. 31 S., R. 14 E.;

(11) Then east southeasterly, approximately 0.9 mile in a straight line, to the point at which Upper Arroyo Grande Road crosses the spillway of Lopez Dam in section 32, T. 31 S., R. 14 E. (see "Tar Spring Ridge" map);

(12) Then, in a generally easterly direction, approximately 3.64 miles along Upper Arroyo Grande Road (under construction) to the point where the broken red line for the proposed location of said road diverges in a northerly direction from the light duty

roadbed of said road in the Arroyo Grande land grant (north of section 35, T. 31 S., R. 14 E.);

(13) Then, in a generally northerly direction, approximately 2.5 miles, along the broken red line for the proposed location of Upper Arroyo Grande Road to its point of intersection with an unnamed unimproved road (this intersection being 1.2 miles northwest of Ranchita Ranch) in the Arroyo Grande land grant;

(14) From the point of intersection of the proposed location of Upper Arroyo Grande Road and the unnamed unimproved road, the boundary proceeds in a straight line, east northeasterly, approximately 1.8 miles, to the summit of an unnamed peak identified as having an elevation of 1,182 feet, in the northwest corner of section 19, T. 31 S., R. 15 E.;

(15) Then southeasterly, approximately 1.8 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,022 feet, in the northeast corner of section 29, T. 31 S., R. 15 E.;

(16) Then west southwesterly, approximately 0.84 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,310 feet, in the northeast corner of section 30, T. 31 S., R. 15 E.;

(17) Then south southeasterly, approximately 1.46 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,261 feet, in section 32, T. 31 S., R. 15 E.;

(18) Then southeasterly, approximately 0.7 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,436 feet, in the northwest corner of section 4, T. 32 S., R. 15 E.;

(19) Then southwesterly, approximately 1.07 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,308 feet, in the Huasna land grant;

(20) Then west northwesterly, approximately 1.50 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,070 feet, along the east border of section 1, T. 32 S., R. 14 E.;

(21) Then south southeasterly, approximately 1.38 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,251 feet, in the Hausna land grant;

(22) Then southwesterly, approximately 0.95 mile in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,458 feet, in the Santa Manuela land grant;

(23) Then southeasterly, approximately 0.8 mile in a straight line, to the summit of an unnamed peak

identified as having an elevation of 1,377 feet, in the Huasna land grant;

(24) Then southwesterly, approximately 1.4 miles in a straight line, to the summit of an unnamed peak identified as having an elevation of 1,593 feet, in the Santa Manuela land grant (See "Nipomo" map);

(25) Then southwesterly, approximately 1.1 miles in a straight line, to the jeep trail immediately north of the summit of an unnamed peak identified as having an elevation of 1,549 feet, just north of section 35, T. 32 S., R. 14 E.;

(26) Then north northwesterly, approximately 2.73 miles along the jeep trail on Newsom Ridge to the point of intersection of said jeep trail and an unnamed unimproved road (immediately north of section 28, T. 32 S., R. 14 E.);

(27) Then southerly, approximately 1.63 miles along said unimproved road to its intersection with Upper Los Berros No. 2 Road in section 33, T. 32 S., R. 14 E.;

(28) Then southwesterly, approximately 3.27 miles along the stream in Los Berros Canyon (of which approximately 2.0 miles are along Upper Los Berros No. 2 Road) to the point at which U.S. Highway 101 crosses said stream in section 35, T. 12 N., R. 35 W. (See "Oceano" map);

(29) Then across U.S. Highway 101 and continuing in a southwesterly direction approximately 0.1 mile to Los Berros Arroyo Grande Road;

(30) Then following Los Berros Arroyo Grande Road in generally a northwesterly direction approximately 4 miles until it intersects with Valley Road;

(31) Then following Valley Road in generally a northerly direction approximately 1.2 miles until it intersects with U.S. Highway 101;

(32) Then in a northwesterly direction along U.S. Highway 101 approximately .35 mile until it intersects with State Highway 227;

(33) Then in a northeasterly and then a northerly direction along State Highway 227 approximately 1.4 miles to the point of beginning.

Signed: November 29, 1989.

Daniel R. Black,
Acting Director.

Approved: December 15, 1989.

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

[FR Doc. 90-3 Filed 1-3-90; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its regulation at 28 CFR 2.65(c)(2) regarding the timing of interim hearings for prisoners sentenced pursuant to the repealed Youth Corrections Act (formerly 18 U.S.C. 5005 *et seq.*). This modification implements the provisions of a court order in the class action case of *Watts v. Belaski*, Civil Action No. 78-M-495 (D. Colo.), which authorizes the Commission to schedule YCA prisoners for interim hearings at intervals beyond the interval of six months provided by the Commission's present regulation. The court order allows the Commission to schedule an interim hearing every nine months for a prisoner sentenced to a YCA term of less than seven years, and every twelve months for a prisoner sentenced to a YCA term of seven years, and every twelve months for a prisoner sentenced to a YCA term of seven years or more.

EFFECTIVE DATE: February 5, 1990.

FOR FURTHER INFORMATION CONTACT: Rockne Chickinell, Office of General Counsel, U.S. Parole Commission, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: In January, 1989, the Parole Commission began implementing nationwide revised procedures for making parole determinations for prisoners sentenced under the repealed Youth Corrections Act. See 28 CFR 2.65, added in 53 FR 49653-56 (December 9, 1988). These procedures were initially developed by the Commission to satisfy court orders in the class action litigation of *Watts v. Belaski*, Civil Action No. 78-M-495 (D. Colo.). Section 2.65(c)(2) now provides that YCA prisoners should receive an interim hearing every six months. Prior to the issuance of the court order requiring interim hearings on this schedule, the Commission had contended that the YCA did not require such frequent parole hearings, and that it could properly evaluate a YCA prisoner's response to treatment and other new information in his case using a hearing schedule with an interval of more than six months. For comparison, the statute at 18 U.S.C. 4208(h) requires