

**§ 990.107 [Amended]**

4. In § 990.107, paragraph (g)(2) is amended by correcting the reference at the end of the paragraph from "§ 990.110(f)" to read "§ 990.110(e)", and by revising the sentence at the end of the section, to read as follows:

(Approved by the Office of Management and Budget under OMB control number 2577-0125)

**§ 990.108 [Amended]**

5. Section 990.108 is amended by adding at the end of the section the following sentence:

(Approved by the Office of Management and Budget under OMB control number 2577-0125.)

**§ 990.110 [Amended]**

6. Section 990.110 is amended by revising the sentence at the end of the section to read as follows:

(Approved by the Office of Management and Budget under OMB control numbers 2577-0028, 2577-0029, 2577-0071, and 2577-0125.)

Dated: January 18, 1992.

Grady J. Norris,

*Assistant General Counsel for Regulations.*

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also allows wineries to specify more accurately the origin of wines they offer for sale to the public.

**EFFECTIVE DATE:** This final rule is effective February 24, 1992.

**FOR FURTHER INFORMATION CONTACT:** Charles N. Bacon, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20228; telephone (202) 927-8230.

**SUPPLEMENTARY INFORMATION:****Background**

ATF regulations in 27 CFR part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which are delineated in subpart C of part 9. Under 27 CFR 4.25a(e)(2), any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Approved American viticultural areas are listed in 27 CFR part 9.

**Petition**

Mr. Richard Mendelson, on behalf of Atlas Peak Vineyards, the only bonded winery within the area, petitioned ATF to establish a viticultural area in Napa County, California, to be known as "Atlas Peak." This viticultural area is located six to ten miles north-northeast of Napa, California on the western slope of the Vaca Range which separates Napa Valley and Sacramento Valley. The Atlas Peak viticultural area includes the mountain of that name as well as the Foss Valley and portions of the Rector and Milliken Canyons. It has an area of approximately 11,400 acres, with approximately 565 acres planted to vineyards. One winery, Atlas Peak Vineyards, is established within the area, while one additional winery is under construction. There are 14 commercial vineyards in this viticultural area.

The petition presented evidence of the name of the viticultural area, viticultural history, boundaries, and geographical data relating to this viticultural area.

**Name**

With an elevation of 2,663 feet, Atlas Peak is the most prominent feature of the viticultural area. The petition states that the original derivation of the name "Atlas Peak" for the mountain and the surrounding Foss Valley remains

unclear but that the name has been applied since at least 1875.

As evidence of the name, the petitioner provided copies of newspaper articles from the 1870's discussing the merits of Atlas Peak as a resort area. The first, from the July 10, 1875, Napa County Recorder, describes Atlas Peak as the "divide between Foss and Capelle Valleys" and lists the fine scenery, the pure water, the moderate temperature and the dry air as its advantages over nearby areas for camping. The second article, in the November 18, 1876, Napa County Recorder, describes the health benefits of a visit to Atlas Peak. The petitioner also provided a copy of the Report of the Committee on the Establishment of a State Hospital for Consumptives to the California State Legislature in 1880. Atlas Peak was considered as a site for such a hospital on the basis of its "equability of temperature, freedom from fogs, or from harsh winds, the dryness of the atmosphere," and "abundant supply of pure water." The petitioner also stated that "Atlas Peak" is the recognized name for the Foss Valley since the name is used for the valley's main road and only school.

**Viticultural History**

According to the petition, James Reed Harris planted the first vineyard of 1,000 vines in 1870. By 1893, Harris' vineyard had grown to 47 acres. The petitioner provided an 1895 Napa County assessor's map marked with the locations of six vineyards shown by the assessor's records to be located within the area. According to the petitioner, vineyards in the Atlas Peak area survived the Phylloxera epidemic of the 1890's, but were abandoned after enactment of Prohibition in 1920. No new vines were planted until 1940 when the first new vineyard was planted on Mead Ranch, in the southwest portion of the viticultural area. Between 1951 and 1968, six new vineyards were added. Beginning in 1981, several new vineyard plantings were developed in the Atlas Peak area, often utilizing sites previously planted to vines in the 19th century. The petitioner states that Zinfandel is presently the grape variety most recognized for its regional character, but he anticipates that as "young vineyards in the region reach maturity, other grape varieties—including Cabernet Sauvignon and Chardonnay—may well receive individual recognition for their special character." The petitioner submitted samples of Zinfandel labels utilized by one California winery which identifies the grapes in the wine as being grown in

**DEPARTMENT OF THE TREASURY****Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 9**

[T.D. ATF-320; Reference Notice No. 721]

RIN 1512-AA07

**Atlas Peak Viticultural Area (90F-282P)**

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

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

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms is establishing an American viticultural area located in Napa County, California, to be known as "Atlas Peak." This final rule is the result of a petition filed by Mr. Richard Mendelson on behalf of Atlas Peak Vineyards, Napa, California. The Atlas Peak viticultural area is located entirely within the approved "Napa Valley" viticultural area, which is in turn located within the approved "North Coast" area. ATF believes that 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 the wines they purchase. The establishment of viticultural areas

the Atlas Peak area. He also submitted copies of the lists of offerings at the annual Napa Valley Wine Auctions of 1981, 1982 and 1988, which show the source of grapes used in some of the Rutherford Hill wines as "vines at the Mead Ranch atop Atlas Peak."

#### Boundaries

As evidence for the viticultural area boundary, the petitioner pointed out that the name "Atlas Peak" is used to designate the region's oldest access road with a route that traverses Milliken Canyon and Foss Valley as well as Atlas Peak. The boundaries of the viticultural area consist mainly of ridge lines which separate Atlas Peak and the Foss Valley from surrounding valleys and canyons, such as Soda Canyon to the west; Wooden Valley and Capell Valley to the east; and Sage Canyon and Pritchard Hill to the north. The petitioner describes these canyons and valleys as different in history, climate and geology. The exact boundaries of the Atlas Peak viticultural area are described in § 9.140.

#### Distinguishing Features

The petitioner provided the following evidence relating to geographic features which distinguish the Atlas Peak viticultural area from surrounding areas:

##### *Topography*

The area's highest elevation is 2663 feet above sea level at the summit of Atlas Peak. The lowest points are 760 feet above sea level at the bottom of Rector Canyon, in the northwest corner of the area, and the water level of the Milliken Reservoir, 924 feet elevation, at the bottom of Milliken Canyon, in the southeastern portion of the area. Most of the viticultural area, even the Foss Valley described by the petitioner as an "elevated hanging valley," is more than 1400 feet above sea level. It is bound by volcanic ridges and drained by Rector Canyon to the west and Milliken Canyon to the south. According to the petitioner, the topography, "an elevated valley surrounded by volcanic mountains of relatively shallow relief," is unusual for the area.

##### *Soils*

According to a report prepared by Eugene L. Begg, Soils Consultant, and submitted by the petitioner, soils of the Atlas Peak viticultural area are predominantly volcanic in origin. The soil series reported within the area by the "Soil Survey of Napa County, California" (updated 1978), are Aiken, Boomer, Felta, Guenoc, and Hambright soils from andesite and basalt; the Forward soils from rhyolite; the Bale,

Perkins, and Maxwell soils from valley fill alluvium; and the henneke and Montara soils from serpentine. According to Begg's report, only the Henneke and Montara soils, which represent a small percentage of the soils within the area, are from a non-volcanic source. By way of contrast, the soils in surrounding areas such as Soda Canyon, Capell Valley, Wooden Valley, Napa Valley and Stags Leap are far more diverse since they are derived from both volcanic and sedimentary rock sources.

##### *Climate*

The petitioner included a separate report on the climate of the proposed area prepared by Michael Pechner, a consulting meteorologist. His report describes the area as "very distinctive, and perhaps unique in Northern California." In support of this claim, it describes the effect of the location and topography of the Atlas Peak area on the growing conditions. Although the area is only 40 miles from the Pacific Ocean and subject to the afternoon and evening cooling which are characteristic of maritime influence, the area is free from the fogs which are drawn up into the rest of the Napa Valley. Mr. Pechner attributes the lack of fog to the fact that the area is east of Napa, has a high elevation, and is connected to Napa Valley by narrow canyons.

The report also indicates that cooling in the area is influenced by the fact that the area is characterized by shallow volcanic soils and large areas of volcanic rock. This contributes to radiant cooling, resulting in late afternoon temperatures which can drop as much as 30 degrees in two hours, and in daily minimum temperatures which are usually lower than those in nearby Stags Leap, Yountville, or Napa.

Finally, Mr. Pechner's report indicates that the annual rainfall in the Atlas Peak area is greater than in surrounding areas, "due to the terrain forcing the moist air masses of winter storms upward as they move inland along a southeasterly path from the coast, causing condensation." He contrasts average rainfall within the Atlas Peak area of 37.5 inches per year (over a 45-year period) with averages of 25 to 35 inches of rain per year in other parts of Napa Valley. According to the petition, only Howell Mountain, well to the north, has higher rainfall totals than the Atlas Peak area.

#### Notice of Proposed Rulemaking

In response to the petition submitted by Mr. Richard Mendelson on behalf of Atlas Peak Vineyards, ATF proposed the Atlas Peak viticultural area in Notice No. 721 (56 FR 37501), on August

7, 1991. ATF solicited comments in that notice regarding the proposed viticultural area.

#### Comments

ATF received three comments in response to the notice during the 45-day comment period ending on September 23, 1991. All three respondents supported the adoption of the "Atlas Peak" viticultural area.

Two of the respondents own vineyards within the proposed area. One of these, Arthur Havenner, confirmed that the proposed Atlas Peak viticultural area rarely experiences morning fog. He stated that "It is very often the case that the (Napa) valley is fogged in until late in the day while we are in clear sunshine. Our fields heat up earlier as a result." All three respondents stated that the evidence of name, viticultural history, soils, climate and topography contribute to a unique grapegrowing area, and that ATF should, as a result, adopt the Atlas Peak viticultural area.

Based on the evidence furnished with the petition for the Atlas Peak viticultural area, and additional evidence in support of the area provided in written comments, ATF is adopting the Atlas Peak viticultural area as proposed in Notice No. 717. Section 9.140 contains the name and description of the boundaries of the viticultural area. The boundaries are unchanged from those proposed, although their description is slightly modified for better clarity.

#### Miscellaneous

ATF does not wish to give the impression by approving the Atlas Peak 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, but not better than other areas. By approving the area, ATF will allow wine producers 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 Atlas Peak wines.

The use of Atlas Peak as a brand name is governed by 27 CFR 4.39(i), Geographic Brand Names. This section states that (unless it is used in an existing certificate of label approval issued prior to July 7, 1986) the brand name "Atlas Peak" may not be used unless the wine meets the appellation of origin requirements for the viticultural area; i.e., not less than 85% of the wine is derived from grapes grown within the boundaries of the viticultural area and the wine has been fully finished in the

State in which the viticultural area is located.

#### Regulatory Flexibility Act

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

#### Executive Order 12291

It has been determined that this document 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 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 authors of this document are Marjorie Dundas and Charles N. Bacon, 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

Accordingly, 27 CFR part 9 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 § 9.140 to read as follows:

#### § 9.140 Atlas Peak.

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

(b) *Approved maps.* The appropriate maps of determining the boundaries of the Atlas Peak viticultural area are two U.S.G.S. maps. They are entitled:

(1) "Yountville, Calif.," 7.5 minute series, edition of 1951, (photorevised 1968); and

(2) "Capell Valley, Calif.," 7.5 minute series, edition of 1951, (photorevised 1968).

(c) *Boundaries.* The Atlas Peak viticultural area is located in Napa County, California. It lies entirely within the Napa Valley viticultural area. The beginning point is Haystack (peak) found in section 21, T. 7 N., R. 4 W. on the "Yountville" U.S.G.S. map;

(1) From the beginning point, the boundary proceeds south in a straight line approximately 0.5 miles, to the highest point of an unnamed peak of 1443 feet elevation on the boundary of sections 21 and 28, T. 7 N., R. 4 W.;

(2) Then southeast in a straight line approximately one mile to an unnamed pass with an elevation of 1485 feet, located on Soda Canyon Road;

(3) Then easterly in a straight line approximately 0.5 miles to an unnamed peak of 2135 feet elevation;

(4) Then in a generally southeasterly direction, as a series of five straight lines connecting the highest points of unnamed peaks with elevations of 1778, 2102, 1942, 1871 and 1840 feet, ending in the center of section 2, T. 6 N., R. 4 W.;

(5) Then southeast in a straight line approximately 1.8 miles to the highest point of an unnamed peak of 1268 feet elevation in section 12, T. 6 N., R. 4 W. on the Capell Valley U.S.G.S. map;

(6) Then east-southeast in a straight line approximately 1.1 miles to the point where an unnamed tributary stream enters Milliken Creek, immediately south of the Milliken Reservoir in section 7, T. 6 N., R. 3 W.;

(7) Then following the unnamed stream east-northeast approximately 0.5 miles to its source;

(8) Then northeast in a straight line approximately 0.5 miles, through the highest point of an unnamed peak of 1846 feet elevation, to the 1600 foot contour line in the eastern portion of section 8, T. 6 N., R. 3 W.;

(9) Then following the 1600 foot contour line generally north and west for approximately 10 miles, to the point of intersection with the boundary line between sections 12 and 13, T. 7 N., R. 4 W. on the Yountville U.S.G.S. map;

(10) Then following the section boundary line west approximately 1.1 miles to the intersection with an unnamed, unimproved road;

(11) Then northwest in a straight line approximately 0.7 miles to the highest point of an unnamed peak of 2114 feet elevation, located in section 10, T. N., R. 4 W.;

(12) Then northwest in a straight line approximately 0.7 miles to the highest point of an unnamed peak of 2023 feet elevation, located in section 10, T. N., R. 4 W.;

(13) Then southwest in a straight line approximately 2.2 miles to Haystack (peak), the point of beginning.

Signed: November 20, 1991.

Stephen E. Higgins,

Director.

Approved: December 6, 1991.

John P. Simpson,

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

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

RIN 1218-AA 82

### Occupational Exposure to Formaldehyde

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Extension of administrative stay.

**SUMMARY:** On December 4, 1987, the Occupational Safety and Health Administration (OSHA) published a final rule in the *Federal Register* on occupational exposure to formaldehyde (29 CFR 1910.1048, 52 FR 46168). In response to numerous public comments which indicated confusion about the hazard warning provisions of the newly revised Formaldehyde Standard, on December 13, 1988, OSHA announced an administrative stay of paragraphs (m)(1)(i) through (m)(4)(ii) for a period of nine months. OSHA also announced its intention to revoke paragraphs (m)(1)(i) through (m)(4)(ii) and invite comments on replacing them with the Hazard Communication Standard (29 CFR 1910.1200) or another equally protective alternative which would be less confusing to the public (53 FR 50198). The stay was subsequently extended (54 FR 35639, August 29, 1989; 55 FR 24070,