

factors which existed at the time of the district director's denial. On balance, this revision streamlines the adjudications process while protecting due process.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Further, the rule is not a major rule within the definition of Executive Order 12291 and is not subject to a regulatory impact analysis.

#### List of Subjects

##### 8 CFR Part 3

Administrative practice and procedures.

##### 8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

### PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for Part 3 continues to read as follows:

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

2. 8 CFR 3.1(b)(3) is revised to read as follows:

#### § 3.1 General authorities.

\* \* \* \* \*

(b) \* \* \*

(3) Decisions of immigration judges on applications for the exercise of the discretionary authority contained in section 212(c) of the Act as provided in Part 212 of this chapter.

\* \* \* \* \*

### PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

3. The authority citation for Part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252, 1182b, 1182c.

4. 8 CFR 212.3 is revised to read as follows:

#### § 212.3 Applications for the exercise of discretion under section 212(c).

An application for the exercise of discretion under section 212(c) of the Act shall be submitted on Form I-191 to the district director in charge of the area in which the applicant's intended or actual place of residence in the United States is located prior to, at the time of,

or at any time subsequent to the applicant's arrival in the United States. The applicant shall be notified of the decision and if the application is denied, he/she shall be notified of the reasons for denial. No appeal shall lie from a denial. However, the application may be renewed during proceedings before an immigration judge under sections 235, 236, and 242 of the Act and this chapter. An application for the exercise of discretion under section 212(c) of the Act may be submitted by the applicant to an immigration judge in the course of proceedings before him/her under sections 235, 236, and 242 of the Act and this chapter, and shall be adjudicated by the immigration judge in such proceedings, regardless of whether the applicant has made such application previously to the district director. When an appeal may not be taken from a decision of an immigration judge excluding an alien, but the alien has applied for the exercise of discretion under section 212(c) of the Act, the alien may appeal to the Board from a denial of such application in accordance with the provisions of § 236.5(b) of this chapter.

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1728 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-10-M

### DEPARTMENT OF THE TREASURY

#### Bureau of Alcohol, Tobacco and Firearms

##### 27 CFR Part 9

[T.D. ATF-248; RE: Notice No. 601]

#### San Lucas Viticultural Area

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

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

**SUMMARY:** This final rule establishes an American viticultural area known by the appellation "San Lucas." The San Lucas Viticultural Area is located in the vicinity of the Town of San Lucas between King City and San Ardo in southern Monterey County, California.

The use of the name of an approved viticultural area as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as the locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

**EFFECTIVE DATE:** March 2, 1987.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, 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 definite 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) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), 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 shall 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 boundary of the proposed 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 boundary prominently marked.

##### Petition

Almaden Vineyards of San Jose, California, one of several growers having extensive vineyard operations in the vicinity of San Lucas, California, filed a petition for the establishment of a viticultural area to be known by the appellation "San Lucas."

### Notice of Proposed Rulemaking and Public Comment

ATF proposed the establishment of the viticultural area in the **Federal Register** of August 18, 1986 [51 FR 29478]. The comment period closed on October 17, 1986. No comments were received.

### Final Rule

The San Lucas Viticultural Area consists primarily of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling hills to the east and west of a 10-mile-long segment of the Salinas Valley between King City and San Ardo. The principal stream that drains the area is the Salinas River. The bottomlands drained by this river share similar geological history, topographical features, and soils.

The boundary of the viticultural area encompasses approximately 53 square miles or 33,920 acres. The area is approximately 10 miles in length by 5 miles in width and is bisected by State Highway 101 and the Salinas River.

Within the area there are approximately 5,000 acres devoted to the cultivation of wine grapes. Areas presently planted in wine grapes range from alluvial fans and terraces over 350 feet above sea level to low-lying hills having maximal elevations of 800 feet above sea level. The approved area is entirely within the established Monterey Viticultural Area.

### History and Name

With Mexico's independence from Spanish rule in 1824, a succession of Mexican governors ruled California. From 1836 to 1842, the governors secularized the extensive landholdings of the Spanish missions by bestowing land grants, three of which are the Rancho San Benito (6,671 acres), the Rancho San Bernardo (13,346 acres), and the Rancho San Lucas (8,875 acres), awarded during the years 1841 and 1842.

From 1862 to 1890, Alberto Trescony amassed extensive holdings of rangeland consisting of Rancho San Benito and Rancho San Lucas as well as the portion of Rancho San Bernardo north of present-day San Ardo.

Trescony grazed large herds of sheep and cattle on the land and rented tracts of land to tenant farmers who raised feed grains, primarily wheat and barley. As the area prospered, a large grain elevator was erected on a site which later became the Town of San Lucas. With the extension of railroad service south to San Lucas in the 1880's, the town continued to thrive and for a while its size eclipsed that of King City, its

immediate neighbor to the north. The "San Lucas (Agricultural) District", comprised of the Town of San Lucas, the San Lucas and San Benito land grants, and the northern half of the San Bernardo land grant, gained a reputation for raising grain, cattle and horses.

Wine grapes were planted in this area beginning in 1970. Today, with the use of irrigation, the area has approximately 5,000 acres devoted to wine grape cultivation.

### Geography and Boundary

The San Lucas viticultural area consists of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling foothills which form the east and west portions of the approved boundary. Straight lines drawn between the promontories of foothills ranging in elevation from 499 feet to 1,230 feet above sea level form the boundary of the area. The boundary described in § 9.56 is as originally proposed in Notice No. 601.

### Distinguishing Characteristics

In addition to history and name, the San Luca viticultural area is distinguished from adjoining areas to the east and west by differences in climate, temperature, topography, elevation, geology, and soils, and is distinguished from areas to the northwest and southeast by climate and temperature.

### Topography and Elevation

The topography of the viticultural area ranges from bottomland the alluvial fans and terraces in the basin of the Salinas River to the gently rolling Cholame Hills in the Diablo Range east of the area and the slopes at the entrances to canyons in the foothills of the Santa Lucia Range west of the area.

Elevations of existing grape plantings range from bottomlands at 350 feet to hills at 800 feet above sea level. Lying entirely within the approved Monterey Viticultural Area, the boundary of the San Lucas Viticultural Area defines a region well suited for viticulture. The topography of the area ensures adequate ventilation for viticulture.

### Geology

The geology of land within the viticultural area varies little from adjoining basin lands to the northwest and southeast but does differ significantly from that of the hills and mountains to the east and west. The basin of the Salinas Valley consists of sand and gravel alluvia. The central part of the Santa Lucia Range directly west of the proposed area is composed of

diatomaceous shale and massive sandstone. The Cholame Hills in the Diablo Range to the east consist chiefly of calcareous shale. The San Ardo area southeast of the proposed area yields natural gas and oil.

### Soils

The basin of the Salinas River contains a mix of alluvial sand, silt and clay carried downstream over time by tributaries from the mountains and hills surrounding the Salinas Valley. The soil in the vicinity of the Town of San Lucas is mostly Lockwood shaly loam, otherwise known as "Chalk Rock."

Other soil series common to the proposed area are Oceano (loamy sand), Metz complex (loam and sand), Garey (sandy loam), Greenfield (fine sandy loam), and the Snelling-Greenfield complex loam). All are rapidly draining to well drained, coarse to medium textured soils that formed in alluvium. Slopes are 0 to 30 percent. The natural vegetation consists of annual grasses and forbs. Roots penetrate to a depth of more than 60 inches. Soils of these series are used mostly for dryland grain and range. With the use of irrigation, these soils are ideal for the planting of row crops such as grapes.

### Climate

There are different climatic regions and microclimates within Monterey County depending upon proximity to the Pacific Ocean. The climate is cool and moist along the coast, where fog is common, and hot and dry in inland areas in the south-central portion of Monterey County. Temperatures near the coast are uniform throughout the year. However, as distance from water increases, the ranges between seasonal highs and lows and between daytime highs and nighttime lows during the growing season widen.

Along the coast, the average annual temperature is 57° F and freezing temperatures are rare. In the inland southern part of the county, however, greater extremes in temperature and higher average temperatures prevail. The pattern of climate becomes more complex as the maritime influence interacts with mountain barriers and inland heating. The coastal mountains in the central and southern parts of the county hold marine air away from the interior, but as the sun heats the middle and southern parts of the Salinas Valley and higher elevations near the adjacent mountains, rising warm air draws cooler marine air from Monterey Bay into the valley. As a result of the sequence of daytime heating and nighttime cooling as well as the effects of wind and

marine fog, daily and annual temperatures in the county's interior range widely.

Average annual temperatures of about 60° F are characteristic of the Salinas Valley. Temperatures farther inland in the southern Salinas Valley, however, climb fairly high during the day. In summer, the average daily maximum temperature remains in the low 60s along the coast and ranges from the middle 80s to the middle 90s in the southeastern end of the Salinas Valley and the eastern mountain area. Readings of 115° F have been made in the southeasternmost inland reaches of the Salinas Valley.

Precipitation, mostly rain, occurs chiefly in winter. As a result of the terrain and the maritime influence, the amount of precipitation varies considerably from point to point. Annual precipitation ranges from about 105 inches along the crest of the Santa Lucia Range to 10 inches in southernmost Salinas Valley. In most areas of the coastal range, the annual amount averages more than 20 inches and is about 80 inches at higher elevations. Most of the Salinas Valley is in the rain shadow of the coastal range and, consequently, the annual total precipitation drops to as little as 10 inches in areas to the south of King City. Grape growing in the more interior reaches of the Salinas Valley requires irrigation from May to October. East of the Salinas Valley, precipitation increases again on the western slopes of the Gabilan and Diablo Ranges with about 20 inches reported at the higher elevations.

The location of the San Lucas Viticultural Area in the southern end of the Salinas Valley allows a distinction in climatological characteristics from the rest of the county in that the area experiences heat and less intrusion of the fog common to those portions of the Salinas Valley which are closer in proximity to the Monterey Bay.

The April through October growing season of the viticultural area is distinctly warmer than that of the portion of the Salinas Valley to the northwest and cooler than that of the portion of the valley to the southeast.

The climate of the area is characterized by cold summer night temperatures, dropping as much as 40 degrees below daytime highs. Thermograph readings document a 30-degree range between high and low temperatures at Almaden's vineyard situated east of King City and a 40-degree range between high and low temperatures at Almaden's vineyard situated south of San Lucas. The thermograph readings support a "warm"

Climatic Region III classification for the petitioner's vineyard east of King City and a "cool" Climatic Region IV classification for the petitioner's vineyard south of San Lucas.

In Notice No. 601, ATF had proposed a northern leg of the boundary. Since the transition between climatic regions is gradual, ATF sought the submission during the comment period of additional thermograph readings taken from various points in the extensive vineyards situated immediately northwest of the boundary as proposed. Readings recorded over at least the past 10 years would have been helpful in delineating more precisely the northern leg of the boundary. However, ATF received no comments to Notice No. 601. Therefore, this final rule incorporates the boundary description proposed in the notice.

Based on the data submitted by the petitioner for vineyards near King City and San Lucas for the 11-year period 1974 to 1984, ATF concludes that the microclimate of the San Lucas Viticultural Area is the chief characteristic which distinguishes the area from other adjoining areas.

#### Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this final rule is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,
- (c) 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. 604) are not applicable to 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, Pub. L. 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 Michael J. Breen, FAA, 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, 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 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

**Par. 2.** The Table of Sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.56 to read as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.  
9.56 San Lucas.

**Par. 3.** Subpart C is amended by adding § 9.56 to read as follows:

#### § 9.56 San Lucas.

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

(b) *Approved maps.* The appropriate maps for determining the boundary of San Lucas viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series:

San Lucas, CA, 1949, photorevised 1979,  
Natrass Valley, CA, 1967,  
San Ardo, CA, 1967, and,  
Espinoza Canyon, CA, 1949, photorevised  
1979.

(c) *Boundary.* The San Lucas viticultural area is located in Monterey County in the State of California. The boundary is as follows:

Beginning on the "San Lucas Quadrangle" map at the northwest corner of section 5 in Township 21 South, Range 9 East, the

boundary proceeds northeasterly in a straight line approximately 0.35 mile to the 630-foot promontory in section 32, T. 20 S., R. 9 E.;

(1) Then east southeasterly in a straight line approximately 0.6 mile to the 499-foot promontory in the southwest corner of section 33, T. 20 S., R. 9 E.;

(2) Then east southeasterly in a straight line approximately 1.3 miles to the 847-foot promontory in section 3, T. 21 S., R. 9 E., on the "Natrass Valley Quadrangle" map;

(3) Then south southeasterly in a straight line approximately 2.2 miles to the 828-foot promontory in section 14, T. 21 S., R. 9 E., on the "San Ardo Quadrangle" map;

(4) Then east southeasterly in a straight line approximately 1.3 miles to the 868-foot promontory in section 13, T. 21 S., R. 9 E.;

(5) Then southeasterly in a straight line approximately 0.94 mile to the 911-foot promontory in section 19, T. 21 S., R. 10 E.;

(6) Then easterly in a straight line approximately 1.28 miles to the 1,042-foot promontory in section 20, T. 21 S., R. 10 E.;

(7) Then east northeasterly in a straight line approximately 1.28 miles to the 998-foot promontory in southeast corner of section 16, T. 21 S., R. 10 E.;

(8) Then southerly in a straight line approximately 2.24 miles to the 1,219-foot promontory near the east boundary of section 28, T. 21 S., R. 10 E.;

(9) Then southwesterly in a straight line approximately 1.5 miles to the 937-foot promontory near the north boundary of section 32, T. 21 S., R. 10 E.;

(10) Then southwesterly in a straight line approximately 0.34 mile to the 833-foot promontory in section 32, T. 21 S., R. 10 E.;

(11) Then south southeasterly in a straight line approximately 0.5 mile to the 886-foot "Rosenberg" promontory in section 32, T. 21 S., R. 10 E.;

(12) Then south southeasterly approximately 1.1 miles to the 781-foot promontory in section 5, T. 22 S., R. 10 E.;

(13) Then southeasterly in a straight line approximately 0.7 mile to the 767-foot promontory in section 9, T. 22 S., R. 10 E.;

(14) Then southerly in a straight line approximately 0.5 mile to the 647-foot promontory along the south boundary of section 9, T. 22 S., R. 10 E.;

(15) Then southwesterly in a straight line approximately 2.67 miles to the 835-foot promontory in section 19, T. 22 S., R. 10 E.;

(16) Then west southwesterly in a straight line approximately 1.1 miles to the 1,230-foot promontory in section 24, T. 22 S., R. 9 E.;

(17) Then north northwesterly in a straight line approximately 1.4 miles to the 1,149-foot promontory in section 14, T. 22 S., R. 9 E.;

(18) Then northwesterly in a straight line approximately 0.57 mile to the 1,128-foot promontory in section 11, T. 22 S., R. 9 E.;

(19) Then west southwesterly in a straight line approximately 0.58 mile to the 1,220-foot promontory near the north boundary of section 15, T. 22 S., R. 9 E.;

(20) Then northwesterly in a straight line approximately 1.33 miles to the 1,071-foot promontory in the northwest corner of section 9, T. 22 S., R. 9 E.;

(21) Then northwesterly in a straight line approximately 2.82 miles to the 1,004-foot promontory in section 31, T. 21 S., R. 9 E., on the "Espinosa Canyon Quadrangle" map;

(22) Then north northwesterly in a straight line approximately 1.32 miles to the 882-foot promontory in section 25, T. 21 S., R. 8 E.;

(23) Then northwesterly in a straight line approximately 1.05 miles to the 788-foot promontory in section 23, T. 21 S., R. 8 E.;

(24) Then northerly in a straight line approximately 1.54 miles to the 601-foot promontory in section 13, T. 21 S., R. 8 E.;

(25) Then northeasterly in a straight line approximately 3.2 miles to the point of beginning.

Signed: December 18, 1986.

Stephen E. Higgins,  
Director.

Approved: January 9, 1987.

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

[FR Doc. 87-1773 Filed 1-28-87; 8:45 am]

BILLING CODE 4810-31-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-300133A; FRL 3146-9]

#### Octyl Epoxytallate, Stearic Acid, 4,4'-Isopropylidenediphenol Alkyl (C<sub>12</sub>-C<sub>15</sub>) Phosphites, Carbon Black, Chlorinated Polyethylene, and Epoxidized Soybean Oil; Tolerance Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule exempts octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C<sub>12</sub>-C<sub>15</sub>) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil from the requirement of a tolerance when used as inert ingredients in pesticide formulations in animal ear tags. This regulation was requested by Zoecon Industries.

**EFFECTIVE DATE:** Effective on January 29, 1987.

**ADDRESS:** Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Rosalind Gross, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the Federal Register of July 17, 1985 (50 FR

28957), which announced that Zoecon Industries, Dallas, TX 75234, had requested that 40 CFR 180.1001(e) be amended by establishing exemptions from the requirement of a tolerance for octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C<sub>12</sub>-C<sub>15</sub>) phosphites, carbon black, and chlorinated polyethylene when used as inert ingredients in pesticide formulations in animal ear tags, and amending the existing exemption from the requirement of a tolerance for epoxidized soybean oil for the additional use as a plasticizer in pesticide formulations for animal ear tags.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

After the proposed rule was published, EPA initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support these regulations.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices these ingredients are useful and do not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the amendments to 40 CFR Part 180 will protect the public health. Therefore, the regulations are established as set forth below.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify