

contracts, will be effective for taxable years beginning after December 31, 1983.

(b) *Exception.* If an insurance company would be considered the owner of the assets of a segregated asset account under the principles of Rev. Rul. 81-225, 1981-2 C.B. 12, at all times after the later of December 31, 1983, or the date on which the segregated asset account was established, the temporary regulations described in paragraph (a) of this section will not apply to such account until 90 days after their publication in the Federal Register.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it first under the notice and comment procedure provided in 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 817(h) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 750, 26 U.S.C. 817(h); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: October 15, 1984.

Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-189; Re: Notice No. 524]

Establishment of Sonoita Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury Decision.

SUMMARY: This final rule establishes a viticultural area in the State of Arizona to be known as "Sonoita." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes that the establishment of the Sonoita viticultural area and the subsequent use of its name in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

EFFECTIVE DATE: November 26, 1984.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The 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.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by 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.

Notice of Proposed Rulemaking

ATF received a petition from Mr. A. Blake Brophy of the Babocaman Ranch Company, proposing an area near Sonoita, Arizona, as a viticultural area to be known as "Sonoita." In response, ATF published a notice of proposed rulemaking, Notice No. 524, in the Federal Register on May 16, 1984 (49 FR 20730). That notice proposed establishment of the "Sonoita" viticultural area and solicited public comment with respect to the proposed viticultural area.

The area contains about 325 square miles. It is located in extreme southern Arizona, near the Mexican border. There are about 40 acres of grapes currently planted in the proposed area. The petitioner states that plans call for 360 additional acres to be planted. A winery is currently under construction. Soils in the area that are suitable for wine-grape production include the White House-Bernardino-Hathaway and the Caralumpi-Hathaway associations. Grapes are being grown on the floor of the proposed viticultural area at altitudes of between 4,500 feet and 5,000 feet.

Comments

Four public comments were received in response to the notice of proposed rulemaking, Notice No. 524. Two of the public comments were letters of complete support for the proposed area. The other two, however, were from winemakers in Sonoma County, California, who expressed their concern that the proposed name, "Sonoita," could be confused with either "Sonoma County" or "Sonoma Valley," which are already established as appellations of origin for wine.

Therefore, those commenters advocated that another name be chosen to designate this viticultural area. (One of them suggested either "Sonoita-Arizona" or "Arizona Sonoita.")

In support of their contention, one of them pointed out that "5 of the 6 letters in SONOMA are used in SONOITA, in the EXACT PLACE AND ORDER in each of the two words. Phonetically the words sound similar. Potentially, the printed words are so similar that confusion between the words could result."

ATF does not agree that there would be a significant potential for consumer confusion with the name "Sonoita." Despite some similarity, "Sonoita" and "Sonoma" are readily distinguishable. More importantly, the two authorized appellations using the word "Sonoma" must be accompanied by a second word (either "County" or "Valley"); consequently, they are not likely to be confused with the single word "Sonoita" standing alone.

Evidence for the Name "Sonoita"

The following evidence was submitted by the petitioner to show that the viticultural area is known by the name of "Sonoita," and that this name is associated with grape growing in the area:

(a) "Sonoita" is the name of the only viable community in the area. (The town of Sonoita is centrally located within the viticultural area.)

(b) Historically, the name "Sonoita" is derived from a *visita* established in 1691 by the missionary-explorer, Father Eusebio Francisco Kino. At that time, the name given to this small settlement of Sobasipuri Indians was "Los Santos Reyes de Sonoita."

(c) Since 1975, the Babocaman Ranch Company has been cooperating with the University of Arizona in the growing of *vitis vinifera* grapes in the area and in the making of wine from those grapes. These efforts have been described in an article in the American Journal of Enology and Viticulture, Vol. 32, No. 4, pp. 290-296, entitled "The Use of Soils for the Delineation of Viticultural Zones in the Four Corners Region." This article calls the proposed area "Sonoita"; for example: "Other sites such as Sonoita * * * produce much better fruit than expected" (p. 291).

For these reasons, and considering that there is no expectation of consumer confusion, ATF has determined that the name proposed by the petitioner—"Sonoita"—is the best name for this viticultural area.

Geographical Description of the Area

Topographically, the area is separated from the surrounding areas by three major mountain ranges: The Santa Rita Mountains, the Huachuca Mountains, and the Whetstone Mountains. These mountains rise from 2,500 to 4,500 feet above the floor of the viticultural area.

The "old-timers" used to call the area "Sonoita Valley," because it resembles a valley in appearance. But geologically, the area is technically a basin rather than a valley, because it comprises the headwaters for three distinct drainages: Sonoita Creek to the south, Cienega Creek to the north, and the Babocamari River to the east. (In technical geological terms, a "valley" would comprise only a single drainage.)

The most obvious geographical distinction to the area is that, in its native state, it is classified as "high desert grassland," while the surrounding terrain is either mountain or woody-shrub desert. (See Humphrey, Robert R., *The Desert Grassland*, University of Arizona Press.)

The boundaries of the Sonoita viticultural area may be found on seven U.S.G.S. quadrangle maps in the 15 minute series: Benson, Fort Huachuca, Sunnyside, Elgin, Lochiel, Mount Wrightson, and Empire Mountains. The boundaries are described in 27 CFR § 9.97, as added by this document.

Miscellaneous

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

Regulatory Flexibility Act

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

recordkeeping, or other compliance burdens 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.

Executive Order 12291

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau 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; or

(c) Significant adverse effects on competition, employment, investment, productivity, 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, 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.

List of Subjects in 27 CFR Part 9

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

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority in 27 U.S.C. 205, the regulations in 27 CFR Part 9 are amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.97, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.97 Sonoita.

Par. 2. Subpart C of 27 CFR Part 9 is amended by adding § 9.97, which reads as follows:

§ 9.97 Sonoita.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of Sonoita viticultural area are seven U.S.G.S. maps. They are titled:

(1) Benson Quadrangle, 15 minute series, 1958.

(2) Fort Huachuca Quadrangle, 15 minute series, 1958.

(3) Elgin Quadrangle, 15 minute series, 1958.

(4) Lochiel Quadrangle, 15 minute series, 1958.

(5) Mount Wrightson Quadrangle, 15 minute series, 1958.

(6) Sunnyside Quadrangle, 15 minute series, 1958.

(7) Empire Mountains Quadrangle, 15 minute series, 1958.

(c) *Boundary—(1) General.* The Sonoita viticultural area is located in Arizona. The starting point of the following boundary description is the summit of Mount Wrightson (9,543 feet) in the Santa Rita Mountains.

(2) *Boundary Description—(i)* From the starting point southeastward in a straight line for approximately 24 miles, to the summit of Lookout Knob (6,171 feet) in the Canelo Hills.

(ii) From there in a straight line eastward for approximately 10 miles, to the summit of Huachuca Peak (8,410 feet) in the Huachuca Mountains.

(iii) From there north-northwestward for approximately 21 miles in a straight line to the summit of Granite Peak (7,413 feet) in the Whetstone Mountains.

(iv) From there west-southwestward in a straight line for approximately 26 miles, to the summit of Mount Wrightson (the point of beginning).

Signed: September 24, 1984.

Stephen E. Higgins,
Director.

Approved: October 17, 1984.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

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