

**§ 146.151 Orange juice for manufacturing.**

(a) \* \* \* It is prepared from unfermented juice obtained from oranges as provided in § 146.135, except that the oranges may deviate from the standards for maturity in that they are below the minimum for Brix and Brix-acid ratio for such oranges, and to which juice may be added not more than 10 percent by volume of the unfermented juice obtained from oranges of the species *Citrus reticulata* or *Citrus reticulata* hybrids (except that this limitation shall not apply to the hybrid species described in § 146.135). \* \* \*

Dated: May 1, 1992.

Douglas L. Archer,  
Acting Director, Center for Food Safety and Applied Nutrition.

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

[Notice No. 741]

RIN 1512-AA07

**Spring Mountain Viticultural Area (91F-067P)**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area located in Napa County, California, to be known as "Spring Mountain." This proposal is the result of a petition filed on behalf of Marston Vineyards and York Creek Vineyards.

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 allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

**DATES:** Written comments must be received by August 3, 1992.

**ADDRESSES:** Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, Attn: Notice No. 741.

**FOR FURTHER INFORMATION CONTACT:** Marjorie D. Ruhf, Wine and Beer

Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202-927-8230).

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

On August 23 and November 22, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR 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 a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25(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 4.25(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 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 of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

**Petition**

ATF has received a petition from Marston Vineyards and York Creek Vineyards proposing to establish a viticultural area in Napa County, California, to be known as "Spring Mountain." The proposed viticultural area is located within Napa Valley just west of St. Helena, on the eastern slope of the Mayacamas Mountains that separate Napa Valley from Sonoma Valley and the Santa Rosa Plain.

The region is approximately 25 miles north of San Pablo Bay and 30 miles east of the Pacific Ocean. It contains approximately 8,600 acres, of which approximately 800 acres are planted to vineyards. The terrain in the proposed viticultural area consists primarily of east-facing slopes of varying steepness, ranging in elevation from 400 to 2,600 feet. Thirteen wineries are currently active within the proposed viticultural area.

**Evidence of Name**

Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition includes:

(a) Articles in the local newspaper, the St. Helena Star, as far back as December 1877, frequently made references to "Spring Mountain" and mentioned viticultural activities in the area.

(b) In the Annual Report of State Viticultural Commissioners for 1887, on the page that listed varieties of grapes planted in Napa County, "Spring Mountain" was 1 of only 12 locations mentioned.

(c) In California Place Names by Erwin G. Gudde, 3rd Ed. (University of California Press, 1969), Spring Mountain is described as a region filled with reservoirs which supplied water to the town of St. Helena from 1878 to the 1920's. Further, "Spring Mountain" was the name of the school that educated children in the area from the 1870's to the 1930's, and is the name of the principal road that runs through the proposed viticultural area.

(d) In Masee's Guide to Wines of America (1974) "Spring Mountain" is described as being "well on its way to becoming a separate district in its own right, much like Carneros, \* \* \*

(e) Copies of wine labels (1980 Ritchie Creek Vineyard Cabernet Sauvignon, 1978 and 1981 Ridge Cabernet Sauvignon, 1978 and 1986 Ridge Petite Sirah), each of which indicates that most of the grapes used to make the wine came from Spring Mountain.

(f) As stated in the January-February 1977 issue of Connoisseur's Guide to California Wines, "Spring Mountain \* \* \* has supported vineyards for over 100 years and is probably more responsible than any other Napa hillside for creating the mystique of 'mountain grapes.'"

(g) An excerpt from an article appearing in the magazine Friends of Wine (April-May 1984) makes a reference to "Spring Mountain" as being a "well-known" appellation.

### Evidence of Boundaries

Evidence that the boundaries of the proposed area are as specified in the petition includes the following:

(a) In the Annual Report of the Board of State Viticultural Commissioners for 1887, Spring Mountain is listed as one of the locations in Napa County where varieties of grapes were planted.

(b) In *The Connoisseurs' Handbook of California Wines* (1984) the section on "Wine Geography" describes Spring Mountain as "[a] distinctly identifiable watershed area \* \* \* west of St. Helena in the Napa Valley and forms part of the Mayacamus Mountain Range \* \* \* Chateau Chevalier and Spring Mountain Vineyard occupy two of the loveliest refurbished properties \* \* \* York Creek Vineyard is near the top of Spring Mountain. Other wineries here include Yverdon, Keenan, and Smith-Madrone."

(c) In the book *The Winewrights Register* (1988) Spring Mountain is described as being "directly west of the town of St. Helena."

(d) In the *New Signet Book of Wine* (1985) Alexis Bespaloff states that a "number of wineries are situated on the slopes of Spring Mountain, the best known of which is Spring Mountain Vineyards." Other vineyards and wineries mentioned as "situated on the slopes of Spring Mountain" include Newton Vineyard, Chateau Chevalier, Cain Cellars, Robert Keenan Winery, Yverdon Vineyards, Ritchie Creek Vineyard, and Smith-Madrone Vineyards.

(e) In Leon D. Adams' *The Wines of America* (1978) Chateau Chevalier winery is described as being "built in 1891 on Spring Mountain \* \* \*"

(f) In *The 1982 Napa Valley Wine Auction catalog* Keenan Winery is described as "located \* \* \* on the eastern slope of Spring Mountain," and Chateau Chevalier, and Smith-Madrone Vineyards are described as being "high atop Spring Mountain."

(g) Labels for 1978 and 1981 Ridge brand Cabernet Sauvignon indicate that part of the wine came from grapes grown at York Creek Vineyards "on Spring Mountain."

(h) In *California's Great Cabernets* (1989) Spring Mountain is described as including the vineyards of York Creek, Smith-Madrone, Philip Togni, and Newton.

(i) In *Massee's Guide to Wines of America* (1974) Lyncrest Vineyard, currently Marston Vineyards, is also mentioned in the paragraph on Spring Mountain.

(j) In *Bob Thompson's Pocket Guide to California Wines* (1990) Streblov Vineyards is described as "[a] 12-acre

vineyard and 1,200 case winery on the lower slopes of Spring Mountain \* \* \* and Spring Mountain is said to be the "sole source of all the wines" for Stony Hill Vineyards.

Collectively taken, the locations of the vineyards and wineries mentioned above closely approximate the parameters of the proposed Spring Mountain viticultural area.

### Geographical Features

Approximately 8,600 acres in size, the proposed viticultural area is roughly rectangular in shape, extending south from the northern boundary along Ritchie Creek approximately 5 miles to slightly beyond Sulphur Creek, and east from the Napa-Sonoma county line along the summit of the Mayacamus mountain range to the 400 foot elevation near the Napa Valley floor. The 400 foot contour line generally marks the boundary between valley floor and hillside vineyards in the Napa Valley. The petitioners provided the following evidence relating to features which they contend distinguish the proposed viticultural area from the surrounding areas:

#### Soil

(a) The predominant soils in the proposed Spring Mountain viticultural area consist of moderately deep and deep residual upland soils that are an equal mix derived from volcanic and sedimentary parent material.

(b) North of the proposed viticultural area the segment of the Mayacamus Mountains from Diamond Mountain northward is comprised almost entirely of residual upland soils of volcanic origins.

(c) To the east of the proposed viticultural area, on the Napa Valley floor, alluvial soils predominate. These soils are developed on fill materials outwashed from the upland soils and rocks surrounding the valley. The Soil Conservation Service has identified 10 alluvial soils in the valley, none of which are found in the proposed viticultural area.

(d) Of the six residual upland soils from volcanic rocks that are present in the proposed viticultural area (Aiken, Boomer, Felta, Forward, Hambright, and Kidd), only one (Forward) appears in any significant acreage to the south of the proposed Spring Mountain. Both areas contain residual soils from sedimentary rocks, but the acreage and percentage of these sedimentary residual rocks is much greater in the southern segment of the Mayacamus Mountains, south of the proposed Spring Mountain.

(e) West of the proposed viticultural area the warmer slopes of the Mayacamus Mountains in Sonoma County have greater evapotranspiration loss of soil moisture, which is reflected in shallower soils. Also, the residual upland soils from volcano rock found in the proposed viticultural area (Aiken, Boomer, Forward, Felta, and Kidd) are not present in the Sonoma County slopes of the Mayacamus Mountains.

#### Climate

(a) Spring Mountain's primarily eastern exposure contributes to the region's distinctive climate. It is characterized by cool, wet winters and warm dry summers, moderated by periodic ocean breezes and fog. Average annual rainfall is 37 inches.

(b) In readings taken between April 1 and October 31, generally considered the growing season for wine grapes, daily maximum temperatures were from 2 to 11 degrees lower within the proposed viticultural area than in St. Helena, less than 4 miles away to the east. Conversely, daily minimum temperatures at Spring Mountain were generally higher than those recorded in St. Helena, often by more than 10 degrees.

(c) Comparisons of maximum and minimum temperatures within the proposed viticultural area with those of Calistoga, less than 8 miles away to the north, produce the same results, with even greater temperature differentials between the two locations.

(d) The proposed viticultural area regularly enjoys cooling breezes and occasional fog from the west when the rest of Napa Valley, including hillside locations both north and south remains hot.

(e) Spring Mountain experiences greater annual rainfall than the floor of Napa Valley. In addition, the annual average rainfall in Spring Mountain is approximately 37 inches, more than the seasonal normal of 33.11 inches in St. Helena.

(f) According to meteorologist Steven Newman of Earth Environment Service, a review of daily thermograph readings taken during the summer and early autumn shows that the temperature on Spring Mountain rises relatively rapidly until reaching a maximum high at approximately 3 p.m., then declines with similar speed during the late afternoon. The daily maximum temperature is reached approximately 1 hour earlier than in St. Helena, and the temperature peak is very brief when compared to locations on the Napa Valley floor.

**Proposed Boundary**

The boundary of the proposed Spring Mountain viticultural area may be found on four United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in § 9.145.

**Executive Order 12291**

It has been determined that this proposed regulation is not a major regulation as defined in Executive Order 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 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**

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 the proposal, if promulgated as a final rule, is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens 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 notice of proposed rulemaking because no requirement to collect information is proposed.

**Public Participation**

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be

included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

**Drafting Information**

The principal author of this document is Marjorie D. Ruhf, 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, and Wine.

**Authority and Issuance**

Accordingly, title 27, Code of Federal Regulations, part 9, American Viticultural Areas, is proposed to be amended as follows:

**PART 9—AMERICAN VITICULTURAL AREAS**

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

Authority: 27 U.S.C. 205.

2. Subpart C is amended by adding § 9.143 to read as follows:

**Subpart C—Approved American Viticultural Areas****§ 9.143 Spring Mountain.**

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

(b) *Approved maps.* The appropriate maps for determining the boundary of the Spring Mountain viticultural area are four U.S.G.S. 7.5 minute series topographical maps of the 1:24000 scale. They are titled:

- (1) "Kenwood, Calif.," 1954 (photorevised 1980);
- (2) "Rutherford, Calif.," 1951 (photorevised 1968);
- (3) "St. Helena, Calif.," 1960 (photorevised 1980);
- (4) "Calistoga, Calif.," 1958 (photorevised 1980).

(c) *Boundary.* The Spring Mountain viticultural area is located in Napa County, California, within the Napa Valley Viticultural area. The boundary is as follows:

- (1) Beginning on the Calistoga quadrangle map at the Napa-Sonoma county line at the boundary line between sections 18 and 19 in T8N/R6W;
- (2) Then east along the boundary line between sections 18 and 19 for approximately ¾ of a mile to its

intersection with Ritchie Creek at the boundary line between sections 17 and 20;

(3) Then northeast along Ritchie Creek approximately 2 miles, to the 400 foot contour line in the northeast corner in section 16 of T8N/R6W;

(4) Then along the 400 foot contour line in a northeast then generally southeast direction, through the St. Helena and Rutherford quadrangle maps, approximately 9 miles, past the town of St. Helena to the point where it intersects Sulphur Creek in Sulphur Canyon, in the northwest corner of section 2 in T7N/R6W;

(5) Then west along Sulphur Creek (onto the Kenwood quadrangle map) and south to the point where it first divides into two intermittent streams in section 3 in T7N/R6W;

(6) Then south along the intermittent stream approximately 1.5 miles to the point where it intersects the 2,360 foot contour line in section 10 in T7N/R6W;

(7) Then southwest in a straight line, approximately .10 mile, to the unnamed peak (elevation 2600 feet) at the boundary line between Napa and Sonoma Counties;

(8) Then in a generally northwest direction along the Napa-Sonoma county line, through sections 10, 9, 4, 5, 32, 33, 32, 29, 20, and 19, to the beginning point on the Calistoga quadrangle map at the boundary between sections 18 and 19 in T8N/R6W.

Approved: May 21, 1992

Stephen Higgins,  
Director.

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[CGD1 92-004]

**Safety Zone: Rhode Island Sound, Narragansett Bay, Providence River**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the regulation concerning the safety zone required around LPG vessels moored at the LPG facility in the Port of Providence. The amendment would reduce the distance a vessel must moor from an LPG vessel at the LPG facility in the Port of Providence from 400 feet to 200 feet. This action is necessary to eliminate unnecessary economic hardship on the commercial shipping