

subject to such a statement by reason of section 338(f)(1).

§ 1.338-4T [Amended]

Par. 4. Section 1.338-4T is amended as follows:

1. Paragraph (f)(5) Answer (vii)(A) is amended by removing the words "[120th day after date of publication of these regulations in the Federal Register]" and by adding in their place the words "March 15, 1986".

2. Paragraph (f)(6)(iv) Answer 1 (i)(C)(I) is amended by removing the words "August 23, 1985" and by adding in their place the words "March 15, 1986".

3. Paragraph (j)(2) Answer 5(i) is amended by removing from the third sentence the words "August 23, 1985" and by adding in their place the words "March 15, 1986".

Par. 5. Immediately after § 1.1502-75 there is added a new § 1.1502-75T. The new section reads as follows:

§ 1.1502-75T Temporary regulations for filing of consolidated returns; coordination with section 338(h)(10).

(a) *Withdrawal of consolidated return barred.* Notwithstanding the last sentence of § 1.1502-75(a)(1), a consolidated return for the taxable period that includes the acquisition date (as defined in section 338(h)(2)) may not be withdrawn on or after the day that a section 338(h)(10) election is made for a former member of a selling consolidated group (as defined in § 1.338(h)(10)-1T(b)(3)).

(b) *Election to discontinue barred.* Notwithstanding § 1.1502-75(c), if a section 338(h)(10) election is made for a former member of a selling consolidated group that has not filed a consolidated return for the taxable period that includes the acquisition date but filed a consolidated return for a preceding taxable period, the selling consolidated group must file a consolidated return for the taxable period that includes the acquisition date and permission to discontinue filing consolidated returns cannot be granted for, and shall not apply to, that period or a preceding period.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 6. The authority citation for 26 CFR Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. Section 602.101(c) is amended by inserting in the appropriate place in

the table "§1.338(h)(10)-1T(d), (f)(2), and (f)(4) . . . 1545-0702".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

Approved: December 10, 1985.

Ronald A. Pearlman,  
Assistant Secretary of the Treasury.  
[FR Doc. 86-60 Filed 1-3-86; 12:46 pm]  
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**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[T.D. ATF-221; Re: Notice No. 571]

**Revision of the Boundary of the Temecula Viticultural Area**

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

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

**SUMMARY:** ATF is revising the approved boundary of the Temecula viticultural area to include vineyards which were unintentionally omitted from the area when it was approved in T.D. ATF-188 (49 FR 42563). This revision is based on a notice of proposed rulemaking, Notice No. 571, published in the Federal Register of October 10, 1985, at 50 FR 41364, and a petition submitted by Richard C. McMillan, a partner of Bear Valley Vineyards, located near Murrieta, California. 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 viticultural area appellations of origin will also help winemakers distinguish their products from wines made in other areas.

**EFFECTIVE DATE:** February 7, 1986.

**FOR FURTHER INFORMATION CONTACT:** John A. Linthicum, Coordinator, FAA, Wine and Beer Branch, (202) 566-7926.

**SUPPLEMENTARY INFORMATION:** On October 23, 1984, ATF published T.D. ATF-188 (49 FR 42563) establishing the Temecula viticultural area. ATF received two opposing petitions for the establishment of viticultural areas in southwestern Riverside County,

California. The petitions proposed a total of four different boundaries for three different viticultural areas. The approved boundary, developed by ATF, incorporated portions of two of the boundaries proposed in the notice of proposed rulemaking (Notice No. 416, July 27, 1982, 47 FR 32450), and an alternative boundary suggested in 13 public comments.

Since voluminous public comments were received, and a public hearing was held, the opinions of all of the affected parties were well-established in the public record. The dispute was evenly divided between (1) establishing two or more areas, limiting the Temecula viticultural area to the area east of the town of Temecula, versus (2) establishing one large viticultural area extending throughout southwestern Riverside County. ATF chose the latter course of action.

The approved boundary inadvertently omitted a portion of Bear Valley Vineyards on the east side of Murrieta Creek. A vineyard map included in the public record incorrectly showed Bear Valley Vineyards located entirely west of Murrieta Creek. Mr. Richard C. McMillan, a partner of Bear Valley Vineyards, petitioned ATF to revise the boundary to include all of his vineyard in the approved area. The area being added, on the east side of Murrieta Creek, is approximately 60 acres containing approximately 35 acres of grapevines which are part of Bear Valley Vineyards.

Mr. McMillan's petition contained evidence that the area being added to the Temecula viticultural area is under the same marine climate influence which distinguishes the approved area from its surroundings. According to Irving P. Krick's microclimate study of the area, there is no discernible difference between the wind patterns in the area being added compared to the approved area on the opposite side of Murrieta Creek. The areas are similar in topography and microclimate. In addition, the Monserate-Arlington-Exeter soil association, another distinguishing geographical feature, is present on both sides of the creek, both within the approved area, and in the area being added.

ATF believes that the area being added is part of the place named "Temecula" because it is west of the village of Murrieta, California.

Mr. McMillan's petition contained affidavits supporting this enlargement from each of the two opposing parties in the original rulemaking

### Rulemaking Procedure

Based on Mr. McMillan's petition, ATF published a notice of proposed rulemaking, Notice No. 571, in the *Federal Register* of October 10, 1985, at 50 FR 41364, to request comments concerning this proposed revision of the Temecula viticultural area boundary. In response to Notice No. 571, ATF received one comment, supporting the proposal, from Callaway Vineyard & Winery, Temecula, California. Based on the foregoing, the revision of the boundary of the Temecula Viticultural Area is adopted as proposed.

### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 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 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.

### Compliance With Executive Order 12291

In compliance with Executive Order 12291, 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; 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.

### Drafting Information

The principal author of this document is John A. Linthicum, FAA, 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 area, Wine.

### Authority and Issuance

#### PART 9—[AMENDED]

27 CFR Part 9, *American Viticultural Areas*, is amended as follows:

§ 1. The statutory authority for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

§ 2. Section 9.50 is amended by revising paragraphs (c)(23) and (c)(24) and by adding paragraphs (c)(25), (c)(26), and (c)(27), to read as follows:

#### § 9.50 Temecula.

\* \* \* \* \*

(c) \* \* \*

(22) \* \* \*

(23) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Hayes Avenue, northwest of Murrieta, California.

(24) The boundary follows Hayes Avenue northwesterly, approximately 4,000 feet, to its terminus at an unimproved, fair or dry weather road.

(25) The boundary follows this road southwesterly to Murrieta Creek.

(26) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Orange Street in Wildomar, California.

(27) From the intersection of Murrieta Creek and Orange Street in Wildomar, California, the boundary proceeds in a straight line to the beginning point.

Signed: December 5, 1985.

Stephen E. Higgins,  
Director.

Approved: December 18, 1985.

Edward T. Stevenson,  
Deputy Assistant Secretary (Operations).  
[FR Doc. 86-325 Filed 1-7-86; 8:45 am]

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### DEPARTMENT OF JUSTICE

#### 28 CFR Part 16

[AAG/A Order No. 31-85]

#### Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** On September 12, 1985, the Department of Justice issued proposed regulations to amend Title 28 of the Code of Federal Regulations, Part 16, to exempt a new system of records entitled the "General Files System of the Office of the Attorney General (JUSTICE/OAG-001)" from subsections (c) (3) and (4); (d); (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), and (g) of the Privacy Act, 5 U.S.C. 552a. The records contained in this system relate to official investigations and to internal policy decisions. The exemption is needed to protect ongoing investigations, as well as the privacy of third parties and the identities of confidential sources involved in such investigations.

**DATE:** This rule will be effective on or before January 8, 1986.

**ADDRESS:** J. Michael Clark, Acting Assistant Director, General Services Staff, Justice Management Division, United States Department of Justice, Room 9002, 601 D Street, NW., Washington, DC 20530.

**FOR FURTHER INFORMATION CONTACT:** J. Michael Clark, (202) 272-6474.

**SUPPLEMENTARY INFORMATION:** The notice of the proposed rule with invitation to comment was published in the *Federal Register* on September 12, 1985 (50 FR 37232). The public was given 60 days to comment; however, no comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

#### List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, 28 CFR Part 16 is amended to add § 16.70 as set forth below.

Dated: December 4, 1985.

W. Lawrence Wallace,  
Assistant Attorney General for Administration.

#### PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.