

employing agency, of a death benefit to the surviving dependents of any eligible individual under § 192.1(a) who dies as a result of injuries caused by hostile action whose death was the result of the individual's relationship with the Government.

(b) The death benefit payment for an employee shall be equal to one year's salary at the time of death. Such death benefit is subject to the offset provisions under § 192.50(b) including the Federal Employees' Compensation Act. The death benefit for an employee's spouse and other eligible individuals under § 192.1(b) of Subpart A shall be equal to one year's salary of the principal at the time of death.

(c) A death benefit payment for an adult under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the dependent child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or dependent child.

(4) Fourth, to adult, non-dependent children in equal shares.

If there is no survivor entitled to payment under this paragraph (c), no payment shall be made.

(d) A death benefit payment for a child under this section shall be made as follows: To the surviving parents or legal guardian. If there are no surviving parents or legal guardian, no payment shall be made.

(e) As used in this section—each of the terms "widow", "widower", and "parent" shall have the same meaning given such term by section 8101 of title 5, U.S.C.; "child" has the meaning given in § 192.3(b)(2).

#### § 192.52 Disability benefits.

(a) Principals who qualify for benefits under § 192.1 and are employees of the U.S. Government are considered for disability payments under programs administered by the Office of Workers' Compensation Programs (OWCP), Department of Labor, or in the case of foreign service national employees, the programs may be administered by either OWCP or the organizational authority in the country of employment which provides similar coverage under the local compensation plan established pursuant to 22 U.S.C. 3968. Normal filing procedures as specified by either OWCP or the local organizational authority which provides such coverage should be followed in determining eligibility. Duplicate benefits may not be received from both OWCP and the local

organizational authority for the same claim. Additional benefits to persons qualifying for full FECA or similar benefits would not normally be payable under this subpart, except to foreign service national employees whose benefit levels are below comparable benefits payable to U.S. citizen employees under FECA. Foreign service national employees whose benefit levels are below comparable benefits payable to U.S. citizens under FECA may receive benefits under this subpart so that total benefits received are comparable to the benefits payable to U.S. citizen employees under FECA.

(b) Family members who do not qualify for either OWCP benefits or benefits from the organizational authority in the country of employment which provides similar coverage, and anyone eligible under § 192.1(a) who does not qualify for full benefits from OWCP, must file an application for disability benefits with the Office of Medical Services, Department of State, for a determination of eligibility under this subpart, if connected with hostile action abroad. Applications made in connection with hostile action in domestic situations will be directed to the Agency Head. Such applications for disability payments will be considered using the same criteria for determination as established by OWCP.

(c) Family members who are determined to be disabled by the Office of Medical Services, or Agency Head using the OWCP criteria, are eligible to receive a lump-sum payment based on the following guidelines:

(1) Permanent total disability rate. A lump-sum payment equal to two year's salary of the Principal at the time of the qualifying incident.

(2) Temporary total disability rate. A lump-sum payment computed at 66% percent of the monthly pay rate of the Principal for each month of temporary total disability, not to exceed one year's salary of the Principal.

(3) Partial disability rate. A lump-sum payment authorized in accordance with 5 U.S.C. 8106, equal to 66% percent of the difference between the monthly pay at the time of the qualifying incident and the monthly wage-earning capacity of the family member after the beginning of the partial disability, not to exceed one year's salary of the Principal. For family members with no wage-earning history, a lump-sum payment equal to 6% percent of the difference between the estimated monthly wage-earning capacity of the family member at the time of the qualifying incident and the monthly wage-earning capacity after the beginning of the partial disability, not to exceed one year's salary of the Principal

may be authorized, using the criteria established by OWCP for such determination.

(4) Special loss schedule. In addition to the temporary disability benefits payable in accordance with this subsection, if there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, a lump-sum payment may be authorized at the rate of 25 percent of the payment authorized in accordance with the schedule and procedures in 5 U.S.C. 8107 and 20 CFR 10.304. The Director General of the Foreign Service of State or the Agency Head, may at their discretion, authorize payments under this subpart in addition to payments for those organs and members of the body specified in 5 U.S.C. 8107 and in 20 CFR 10.304. The provisions of 20 CFR Part 10, Subpart D, which prevent the payment of disability compensation and scheduled compensation simultaneously, shall not apply to these regulations.

Cash payments under this subpart are the responsibility of the employing agency.

George S. Vest,

*Director General of the Foreign Service and Director of Personnel.*

[FR Doc. 89-7282 Filed 3-27-89; 8:45 am]

BILLING CODE 4710-16-M

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco And Firearms

#### 27 CFR Part 9

[T.D. ATF-286; Re: Notice No. 653]

#### Santa Clara Valley Viticultural Area, CA

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

**ACTION:** Treasury decision; Final rule.

**SUMMARY:** This final rule establishes a viticultural area located in west central California, immediately south of San Francisco Bay. This final rule is based on a notice of proposed rulemaking published in the *Federal Register* on February 4, 1988, at 53 FR 3214, Notice No. 653. 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 areas as appellations of origins will also help winemakers distinguish their products from wines made in other areas.

**EFFECTIVE DATE:** April 27, 1989.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Reisman, Specialist, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, Room 6237, Washington, DC 20226 (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, the names of which may be used as appellations of origin.

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, Part 4, 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 4.25a(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 characteristics (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**

ATF received a petition proposing a viticultural area in Santa Clara, San Benito, San Mateo and Alameda Counties that extends from lower San

Francisco Bay from the cities of San Jose, Santa Clara, Menlo Park, Mountain View and Fremont on the north to Gilroy and Morgan Hill on the southern end. The area proposed was approximately 550 square miles or 352,000 acres. Most of the proposed area was in Santa Clara County. In recent years rapid growth in population in this region has forced out most of the former large bonded wineries and vineyards from the northern end of the Valley to other areas in California. Lying amidst the suburban development at the northeastern end of the Santa Clara Valley at Warm Springs in Alameda County (near Mission San Jose and Fremont) is one of the original wineries established in the Valley. This 400 acre winery now known as the Weibel Vineyards was formerly the Leland Stanford Winery established in 1869.

Historical records document that this northeast portion of the viticultural area has long been considered a part of the Santa Clara Valley. Because this land in Alameda County meets the viticultural area evidence requirements it is included as part of the Santa Clara Valley viticultural area.

The boundary description in the notice of proposed rulemaking (No. 653, published February 4, 1988) included a small part of San Mateo County (Redwood City, Atherton, Menlo Park and Woodside).

This final rule does not include the approximately 30 square miles in San Mateo County that was proposed in the notice of proposed rulemaking. The approved viticultural area boundary does not include any land in San Mateo County because it was determined that the area north of the Santa Clara County/San Mateo County (Los Trancos Creek/San Francisquito Creek) boundary is not locally and/or nationally known as being part of the Santa Clara Valley. The evidence showed that this small area is more closely associated with another region north and west of the valley. The evidence showed that the Redwood City, Atherton and Menlo Park areas are more closely associated with the City of San Francisco and the San Francisco Bay communities. Those cities immediately south of San Francisco running along the San Francisco Bay have long been known as "peninsula communities" of San Francisco and they are not part of the named area, known as the Santa Clara Valley, which is to the south. The evidence also showed that Woodside to the extreme west of the Santa Clara Valley is more closely associated with the nearby Santa Cruz Mountains. Other evidence that supports the establishment of the

northwest boundary of the Santa Clara Valley in Santa Clara County shows that another named valley known as the Portola Valley, is located to the southeast of Palo Alto in San Mateo County. This final rule excludes this area in San Mateo County (Redwood City, Atherton, Menlo Park and Woodside) from being part of the Santa Clara Valley viticultural area. The northwest boundary has been redrawn to include an area as far north as Palo Alto in Santa Clara County. The approved northwest boundary is defined by the natural boundaries of San Francisquito Creek and Los Trancos Creek which also represent the San Mateo County/Santa Clara County boundary.

The Santa Clara Valley viticultural area is protected from the Pacific Ocean by the Santa Cruz Mountains on the west and separated from the San Joaquin Valley by the Diablo Mountain Range on the east. To the north of the Santa Clara Valley is the San Francisco Bay and surrounding Bay communities. There are approximately 40 bonded wineries in the viticultural area with an estimated total of 1,500 acres of grapes. The approved viticultural area is approximately 530 square miles or 339,200 acres.

**Name**

The term "Santa Clara Valley" has been used in local books written from 1871 to present. The area has a long history as a grape-growing area. As stated by Mr. Leon Adams in his book, *The Wines of America*, "Santa Clara is the oldest of northern California wine districts." The tourist pamphlet *San Jose-Santa Clara County, California (with full information on the Santa Clara Valley)* published by the San Jose Chamber of Commerce (circa 1905) described the geographical features and local agriculture of the Santa Clara Valley. The best evidence of the area's identification as the Santa Clara Valley is indicated on the United States Geological Survey (U.S.G.S.) maps that depict and name the entire valley area from a topographic viewpoint.

**Boundaries**

U.S.G.S. maps with the boundaries of the viticultural area (and vineyards and bonded wineries) appropriately marked were submitted with the petition. A few small mountain vineyards exist north and west of San Jose, but the bulk of the valley's northernmost grape growing has faded under urban development.

Most of the wineries in the Santa Clara Valley viticultural area are located where the valley narrows south

of San Jose in the Morgan Hill, Gilroy and Hecker Pass areas.

In 1982, the Santa Cruz Mountains viticultural area was approved by ATF (T.D. ATF-98, 46 FR 59240). This grape growing area is located immediately to the west of the Santa Clara Valley viticultural area. Much of the western boundary of the proposed Santa Clara Valley viticultural area is commonly shared with the eastern boundary of the Santa Cruz Mountains viticultural area.

### Geographic Features

#### (a) Climate

All references to the Santa Clara Valley in early publications made mention of the rich fertile soil of the valley floor which was protected from the colder ocean conditions by the nearby Santa Cruz Mountains located to the west and from the much hotter interior temperatures of the San Joaquin Valley with the Diablo Range to the east. The climate of the Santa Clara Valley is moderate, with warm, dry summers, mild wet winters, and prevailing northwest winds. Summer temperatures can rise above 100 degrees F. at times. The annual average temperature is 58 to 60 degrees F. The growing season between killing frosts is fairly long, ranging from 250 to 300 days. The area falls into climate region II (cool) with a heat summation of 2,700 degree days. Heavy frosts do not occur in the viticultural area, although temperatures often get below freezing in winter. Most of the days are sunny, although in summer a high fog often hangs over the valley in the morning hours.

The nearby Santa Cruz Mountains (to the west) fall into climate Region I (very cool) having 2,500 or fewer degree days. The Santa Cruz Mountains are characterized by a climate which is greatly influenced in the western portion by the Pacific Ocean breezes and fog movements, and in the eastern portion by the moderating influences of the San Francisco Bay. The Santa Cruz Mountains are characterized by a growing season in excess of 300 days. This is due to cool air coming down the mountains forcing warmer air upward, thereby lengthening the season in which the necessary conditions for grape-growing are present.

Temperatures in the slopes of the hillsides of the Santa Cruz Mountains where most of the vineyards are located appear to vary from that at the lower elevations of the vineyards in the Santa Clara Valley. This is caused by the marine influence coming off the Pacific Ocean which cools the Santa Cruz Mountains at night, much more so than

the farther inland Santa Clara Valley floor.

The rich San Joaquin Valley located on the east side of the Diablo Range is in Region V (very warm climate). The Livermore Valley (an American viticultural area) located 15 miles northeast of the Santa Clara Valley viticultural area is mostly in Region III (moderately cool climate).

#### (b) Rainfall and Winds

The average rainfall in the Santa Clara Valley is between 16 to 20 inches. The rainy season, when 80% of the rain falls, extends from November through March. Annual precipitation to the west averages over 28 inches annually at coastal Santa Cruz and over 58 inches annually at Ben Lomond in the elevated areas of the Santa Cruz Mountains. In the Diablo Range, to the east, precipitation is as much as 30 inches annually. Rainfall in the mountainous portions increases rapidly with elevations, although much less so in the Diablo Range than in the Santa Cruz Mountains. There is a greater amount of rainfall in the Santa Cruz Mountains because they are located close to the Pacific Ocean. Rainfall in the Livermore Valley (to the northeast) averages only 14 inches annually.

During the summer, the cool temperatures and the prevailing moderate to strong, west and northwest offshore winds move into the San Francisco Bay area at low elevations, thus, the effect of the marine air is felt in the Santa Clara Valley mainly late in afternoon and the evenings.

Surface winds enter the south part of the Santa Clara Valley via the Coyote Narrows and pass through Pajaro Gap. Prevailing wind direction is from the north over most of the southern portion of the valley, with winds blowing mostly from the south just below Gilroy, due to the Pajaro Gap. In the vicinity of Gilroy, however, winds are variable, because the currents from north and south meet there. Winter winds associated with the low pressure cyclonic storms which visit the region are more changeable in direction and velocity. Wind speeds are greatest during summer, when they average ten miles per hour.

#### (c) Soils

The soil associations present in the Santa Clara Valley are areas dominated by very deep soils on alluvial plains, fans, stream benches and terraces. The soils most predominant in the Santa Clara Valley are the Yolo and Zamora-Arbutle-Pleasanton Associations.

The soils in the Santa Cruz Mountains to the east are Franciscan shale which is unique to this particular area south of

San Francisco. The soils of the Santa Cruz Mountains are basically residual materials from the decomposition of bedrock and the soil types in the area differ depending on the type of underlying bedrock. Generally, these residual soils tend to be thin and stony, and somewhat excessively drained. This contrasts with the soils of the Santa Clara Valley, which are primarily alluvium and more fertile. The soils of the Livermore Valley also differ from those of the Santa Clara Valley because they are gravelly as opposed to the gravel free Santa Clara Valley soils.

#### (d) Physiology and Geology

The Santa Clara Valley ranges in elevation from 100 to 800 feet above sea level as compared with the Santa Cruz Mountains and Diablo Range which surround the valley on the west and east side, respectively. The Santa Cruz Mountains elevation is approximately 1,000 to 3,500 feet above sea level. The Diablo Range elevation averages approximately 1,000 to 3,500 feet above sea level. The Santa Cruz Mountains are geologically different than the Santa Clara Valley because this mountain area is composed of formations of granite, marble, sandstone, lava, quartzite and schist.

The Santa Clara Valley floor consists chiefly of a number of confluent alluvial fans and flood plains formed by deposits from the numerous streams that enter the valley from both mountain systems. An imperceptible alluvial divide at Morgan Hill separates the drainage of the valley into a north-flowing system and a south-flowing system. The former drains into San Francisco Bay at the north end of Santa Clara County, and the latter leads to the Pajaro River south of Gilroy and eventually flows into Monterey Bay.

The oldest rocks found within eastern Santa Clara Valley are the Franciscan-Knoxville Group of Upper Jurassic age. These rocks form the largest single geologic unit in the area. Along the margins of the Santa Clara Valley, Pliocene strata are exposed and the valley floor itself is composed of an accumulation of Quaternary clay, sand, and gravel.

### Notice of Proposed Rulemaking

On February 4, 1988, Notice No. 653 was published in the Federal Register with a 30-day comment period. In that notice, ATF invited comments regarding the proposal to establish "Santa Clara Valley" as an American viticultural area. ATF requested comments for the proposed name and boundaries for the Santa Clara Valley. ATF specifically

asked for comments on the proposed northern and southern boundaries. No comments were received during the 30-day comment period on the name Santa Clara Valley or on the boundaries.

#### Miscellaneous

ATF does not wish to give the impression by approving "Santa Clara Valley" as viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this viticultural 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 wines from "Santa Clara Valley."

#### 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. 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, 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, 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, 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 Edward A. Reisman, Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms.

#### List of Subjects 27 CFR Part 9

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

#### Authority and Issuance

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

#### PART 9—[AMENDED]

**Paragraph 1.** The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

**Par. 2.** The table of contents in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.126 to read as follows:

#### Subpart C—Approved American Viticultural Areas

Sec.

\* \* \* \* \*  
9.126 Santa Clara Valley.  
\* \* \* \* \*

**Par. 3.** Subpart C is amended by adding § 9.126 to read as follows:

#### § 9.126 Santa Clara Valley.

(a) Name. The name of the viticultural area described in this section is "Santa Clara Valley."

(b) Approved Maps. The appropriate maps for determining the boundaries of the "Santa Clara Valley" viticultural area are 25 U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Calaveras Reservoir, Calif., 1961 (photorevised 1980);

(2) Castle Rock Ridge, Calif., 1955 (photorevised 1968), photoinspected 1973;

(3) Chittenden, Calif., 1955 (photorevised 1980);

(4) Cupertino, Calif., 1961 (photorevised 1980);

(5) Gilroy, Calif., 1955 (photorevised 1981);

(6) Gilroy Hot Springs, Calif., 1955 (photorevised 1971), photoinspected 1973;

(7) Lick Observatory, Calif., 1955 (photorevised 1968), photoinspected 1973;

(8) Loma Prieta, Calif., 1955 (photorevised 1968);

(9) Los Gatos, Calif., 1953 (photorevised 1980);

(10) Milpitas, Calif., 1961 (photorevised 1980);

(11) Mindego Hill, Calif., 1961 (photorevised 1980);

(12) Morgan Hill, Calif., 1955 (photorevised 1980);

(13) Mt. Madonna, Calif., 1955 (photorevised 1980);

(14) Mt. Sizer, Calif., 1955 (photorevised 1971), photoinspected 1978;

(15) Mountain View, Calif., 1961 (photorevised 1981);

(16) Newark, Calif., 1959 (photorevised 1980);

(17) Niles, Calif., 1961 (photorevised 1980);

(18) Pacheco Peak, Calif., 1955 (photorevised 1971);

(19) Palo Alto, Calif., 1961 (photorevised 1973);

(20) San Felipe, Calif., 1955 (photorevised 1971);

(21) San Jose East, Calif., 1961 (photorevised 1980);

(22) San Jose West, Calif., 1961 (photorevised 1980);

(23) Santa Teresa Hills, Calif., 1953 (photorevised 1980);

(24) Three Sisters, Calif., 1954 (photorevised 1980);

(25) Watsonville East, Calif., 1955 (photorevised 1980); and

(c) The boundaries of the proposed Santa Clara Valley viticultural area are as follows:

(1) The beginning point is at the junction of Elephant Head Creek and Pacheco Creek (approx. .75 mile southwest of the Pacheco Ranger Station) on the Pacheco Peak, Calif. U.S.G.S. map.

(2) From the beginning point the boundary moves in a northerly direction up Elephant Head Creek approx. 1.2 miles until it intersects the 600 foot elevation contour line;

(3) Then it meanders in a northwesterly direction along the 600 foot contour line approx. 55 miles until it intersects Vargas Road in the northwest portion of Sec. 25, T4S/RIW on the Niles, Calif. U.S.G.S. map;

(4) Then it travels in a northwesterly direction approx. .6 mile to the intersection of Morrison Canyon Road in the eastern portion of Sec. 23, T4S/RIW;

(5) Then it follows Morrison Canyon Road west approx. 1.5 miles to Mission Boulevard (Highway 238) at Sec. 22, T4S/RIW;

(6) Then it moves northwest on Mission Boulevard (Highway 238) approx. .6 mile to the intersection of Mowry Avenue just past the Sanatorium at Sec. 22, T4S/RIW;

(7) It then goes in a southwesterly direction on Mowry Avenue approx. 3.6 miles to the intersection of Nimitz Freeway (Highway 880) (depicted on the map as Route 17) at Sec. 5, T5S/RIW, on the Newark, Calif. U.S.G.S. map;

(8) It then moves along the Nimitz Freeway (Highway 880) in a southeasterly direction for approx. 9 miles to the intersection of Calaveras Boulevard (Highway 237) at Milpitas on the Milpitas, Calif. U.S.G.S. map;

(9) Then it follows Highway 237 in a westerly direction approx. 7.2 miles to intersection of Bay Shore Freeway (Highway 101) at Moffett Field on the Mt. View, Calif. U.S.G.S. map;

(10) Then in a northwest direction follow Bay Shore Freeway (Highway 101) for approx. 6.5 miles to the intersection of the San Francisquito Creek (Santa Clara County/San Mateo County boundary) at Palo Alto T5S/R2W, on the Palo Alto, Calif. U.S.G.S. map;

(11) Then it heads west on San Francisquito Creek (Santa Clara County/San Mateo County boundary) approx. 7 miles until it converges with Los Trancos Creek (Santa Clara County/San Mateo County boundary) near Bench Mark 172, approx. 100 feet east of Alpine Road;

(12) It travels south approx. 4 miles along Los Trancos Creek (Santa Clara County/San Mateo County boundary) until it intersects the 600 foot elevation contour line at El Corte De Madera, approx. .5 mile north of Trancos Woods on the Mindego Hill, Calif. U.S.G.S. map;

(13) It moves along the 600 foot elevation contour line in a southeasterly direction approx. 10 miles to Regnart Road at Regnart Creek on the Cupertino, Calif. U.S.G.S. map;

(14) It goes northeast along Regnart Road, approx. .7 mile to the 400 foot elevation contour line (.3 mile southwest of Regnart School);

(15) It travels along the 400 foot elevation contour line southeast approx. 1.4 miles to the north section line of Section 36, T7S/R2W at Blue Hills, CA;

(16) The boundary goes east on the section line approx. .4 mile to Saratoga Sunnyvale Road (Highway 85);

(17) It travels south on Saratoga Sunnyvale Road (Highway 85) approx. 1 mile to the south section line of Section 36, T7/8S R2W;

(18) Then it goes west on the section line approx. .75 mile to the first intersection of the 600 foot elevation contour line;

(19) It follows the 600 foot elevation contour line southeast approx. .75 mile to Pierce Road south of Calabazas Creek;

(20) It then travels south on Pierce Road approx. .4 mile to the first intersection of the 800 foot elevation contour line;

(21) Then it runs southeast approx. 28 miles on the 800 foot elevation contour line to the east section line of Sec. 25,

T10S/R2E/R3E approx. .5 mile north of Little Arthur Creek on the Mt. Madonna, Calif. U.S.G.S. map;

(22) Then it goes south on the section line approx. .5 mile to the 800 foot elevation contour line approx. .2 mile south of Little Arthur Creek;

(23) Then it goes southeast along the 800 foot elevation contour line approx. 2.7 miles to Hecker Pass Road (Highway 152) approx. 1.25 miles east of Hecker Pass on the Watsonville East, Calif. U.S.G.S. map;

(24) The boundary goes northeast on Hecker Pass Road (Highway 152) approx. .75 mile to the intersection of the 600 foot elevation contour line just west of Bodfish Creek;

(25) It travels southeast along the 600 foot elevation contour line approx. 7.3 miles to the first intersection of the western section line of Sec. 30, T11S/R3E/R4E on the Chittenden, Calif. U.S.G.S. map;

(26) Then it follows south along the section line approx. 1.9 miles to the south township line at Sec. 31, T11S/T12S, R3E/R4E;

(27) It moves in an easterly direction along the township line approx. 12.4 miles to the intersection of T11S/T12S and R5E/R6E on the Three Sisters, Calif. U.S.G.S. map;

(28) Then it goes north along R5E/R6E range line approx. 5.3 miles to Pacheco Creek on the Pacheco Creek, Calif. U.S.G.S. map;

(29) Then it moves northeast along Pacheco Creek approx. .5 mile to Elephant Head Creek at the point of beginning.

Signed: February 21, 1989.

Stephen E. Higgins,  
Director.

March 3, 1989.

Approved:

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

[FR Doc. 89-7216 Filed 3-27-89; 8:45 am]

BILLING CODE 4810-31-M

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Parts 19, 20, 22, 194, 231, and 240

[T.D. ATF-285]

#### Fill Tolerance for Wine, and Technical Corrections Concerning Occupational Taxes Relating to Alcohol

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

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

**SUMMARY:** This final rule implements certain provisions of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647). Those provisions amended the Internal Revenue Code of 1986 (IRC) to (1) authorize a fill tolerance for wine filled into bottles or other containers and (2) exempt certain types of businesses or organizations relating to alcohol from having to pay special (occupational) tax. The businesses or organizations affected by the exemption are: (1) Agencies and instrumentalities of the United States who procure specially denatured alcohol or tax-free alcohol, (2) proprietors of taxpaid wine bottling houses only in regard to special tax imposed on them for making wholesale or retail sales at their taxpaid wine bottling house premises or at their principal business office, (3) wholesale (or retail) dealers in beer who subsequently become wholesale (or retail) liquor dealers at the same location in the same tax year, (4) certain educational institutions who procure less than 25 gallons of specially denatured alcohol per year for experimental or research use, and (5) proprietors of small alcohol fuel plants who produce not more than 10,000 proof gallons of alcohol per year. This action should result in the elimination of special tax on a significant number of special taxpayers who meet the defined criteria.

**EFFECTIVE DATES:** Amendments made by this Treasury decision to regulations in 27 CFR Part 240 are made retroactive to January 1, 1989. Amendments to regulations in 27 CFR Parts 22, 194 and 231 are made retroactive to January 1, 1988. Amendments to regulations in 27 CFR Part 19 become effective on July 1, 1989. In regard to 27 CFR Part 20: paragraphs (a) and (d) of § 20.38, § 20.241, and the removal of § 20.241a are made retroactive to January 1, 1988. Paragraph (e) of § 20.38 becomes effective on July 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Jim Hunt, Robert White or Steve Simon, Wine and Beer Branch (202-566-7626), Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

#### SUPPLEMENTARY INFORMATION:

##### Fill Tolerance for Wine

Under present law, 26 U.S.C. 5041, there is imposed on several classes of wine a Federal excise tax based on such wines' respective alcohol content. The tax rates range from 17¢ per gallon (14 percent or less alcohol content by volume) to \$3.40 per gallon for champagne and other sparkling wines.